

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (MAIN) NO. 140 OF 2018

VICKY D'SOUZA.,

... Applicant

Versus

DHARMESH SAGLANI.,

... Respondent

Mr. V. Toraskar, Advocate for the Applicant.
Mr. Amit Palekar, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 18th April 2019

P.C.

The challenge in this application under Section 482 of the Code of Criminal Procedure is to the judgment and order dated 26.03.2018 passed in Criminal Revision Application No.63/2017. By the said judgment, the learned Sessions Judge has confirmed the order dated 23.06.2017 passed by the learned Judicial Magistrate First Class at Canacona, in Criminal Case No.20/NI/217, thereby issuing process against the applicant, under Section 138 of the Negotiable Instruments Act.

2. I have heard the learned Counsel for the applicant and the learned Counsel for the respondent. Perused record.

3. The learned Counsel for the applicant has raised two

contentions. It is submitted that according to the respondent, the amount of Rs.5,00,000/- was paid by the respondent to the applicant for applicant's business purpose. It is submitted that there is no evidence to show that the amount was paid by the respondent for the purpose of business of the applicant. Secondly, it is submitted that the subject cheque was stolen, in respect whereof a complaint was filed and after investigation, the police filed chargesheet against a third person under Crime No.74/2014. Except this, there are no other grounds.

4. The learned Counsel for the respondent has supported the impugned order.

5. I have considered the submissions made, I am afraid that the contentions as raised on behalf of the applicant which may be part of his defence, cannot be considered at this stage in a challenge to the order of the issuance of process. It is for the respondent to raise appropriate defence before the learned Magistrate and to substantiate the same. Thus, the concurrent orders passed by the Courts below issuing process under Section 138 of the Negotiable Instruments Act, do not call for any interference.

6. The Criminal application is without any merit and is accordingly dismissed.

7. Needless to mention that the interim relief stands vacated.

C. V. BHADANG, J.

arp/*