

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 304 OF 2016

Meenakshi Shivdas Nair ...Applicant

Versus

Babulal Manikchand Mundra & Anr. ...Respondents

**WITH
CRIMINAL APPLICATION NO. 305 OF 2016**

Meenakshi Shivdas Nair ...Applicant

Versus

Shivkishan Manikchand Mundra Through
Constituted Attorney Baboolal
Manikchand Mundra ...Respondents

**WITH
CRIMINAL APPLICATION NO. 306 OF 2016**

Meenakshi Shivdas Nair ...Applicant

Versus

M/s. Bhagyashri Enterprises & Anr. ...Respondents

Mr. Ashok Bhatia for Applicant.
Ms. Perna Shetty i/b Mr. Anil Agarwal for Respondent No. 1.
Mr. A.R. Patil, APP for Respondent – State.

CORAM : S.S. SHINDE, J.
DATE : 20th SEPTEMBER 2019

PER COURT:

1. The Criminal applications No. 304 of 2016 and 305 of 2016

takes an exception to the order of issuance of process passed by learned Metropolitan Magistrate, 70th Court, Sewree, Mumbai on 13th August 2015 and Criminal Application No. 306 of 2016 takes an exception to the order of issuance of process passed by learned Metropolitan Magistrate, 70th Court, Sewree, Mumbai on 9th December 2015.

2. Pursuant to the notices issued to the Respondent No. 1, Respondent No. 1 caused his appearance. Learned counsel appearing for Respondent No. 1 has tendered across the bar, affidavit of Respondent No. 1 same is taken on record. In the said affidavit in Para 15 it is stated that, Respondent No. 1 is now received legal opinion that, the present Applicant not being signatory of the subject dishonored cheque, as also the original Accused No. 1 Mr. Shivdas Nair being proprietor of the firm, present Applicant cannot be prosecuted.

3. In the light of statements made by Respondent No. 1 in the said affidavit, this Court is of the opinion that, the order of issuance of process passed by the learned Magistrate against the Applicant was unnecessary. In that view of the matter, and since Respondent No. 1 has filed the affidavit, the present Applicant cannot be prosecuted, the order of issuance of process to the extent of present Applicant will have to be set aside and accordingly to the extent of present Applicant, the order of issuance of process which

has been impugned in these applications stands quashed and set aside. However, so far Accused No. 1 Mr. Shivdas Nair, the concerned Court shall proceed further. With the above observations all three applications stands disposed of.

[S.S. SHINDE, J.]