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FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 174 OF 2015
WITH
CRIMINAL APPLICATION NO.173 OF 2015

M/s. De Zens Products

... Applicant

Vs.

The State of Maharashtra and Ors.

... Respondents

Mr. Jatin Premji Shah a/w Ms. Snehankita Munj a/w Ms. Zarna Shah for
the Applicant.

None for the Respondents.

Mr. Y.M. Nakhwa, APP for the Respondent – State.

CORAM: SMT. SADHANA S. JADHAV, J.

DATE : 16th OCTOBER 2019.

P.C. :

1 None appears for the respondents although served.

2 Perused the evidence on record. By covering letter dated 25th
August 2011 the respondent had acknowledged receipt of Barco Projector
with all accessories and given 8 cheques to the tune of Rs.13 Lakhs. That
two cheques of Rs.5 Lakh and Rs.1 Lakh respectively were honoured only
on 17th September 2011 and 3rd November 2011.

3 That by letter dated 19th December 2011 the respondent had issued a letter to the Manager Dena Bank directing him to stop payment of Rs.6 Lakh to the complainant. The complainant had then issued statutory notice on 9th March 2012. The notice was not replied by the respondent in any manner. It was also not informed to the complainant that they have sent stop payment letter to Dena Bank. Hence, the complainant was constrained to file a complaint. Upon perusal of evidence, it appears that in the statement under section 313 of Criminal Procedure Code, 1973 the accused had admitted that statutory notice was not replied. It is also admitted that the cheques were issued towards a legally enforceable date however, it is the defence of the accused that since the goods were not of good quality and were useless, the accused had requested stop payment. For the first time, the defence is taken at the time of trial. In view of this, prima facie case for admission of the appeal is made out.

4 Leave is granted.

5 Appeal is admitted.

6 Call for R & P.

7 The respondents shall appear before the Metropolitan Magistrate, 7th Court, Dadar within six weeks and furnish bail to the satisfaction of the learned Magistrate. Thereafter, the respondents shall continue to mark their presence before the learned Magistrate once in six months on the date assigned by the learned Magistrate. Upon failure, the learned Magistrate shall make a report to the High Court and issue bailable warrants. Applications seeking leave to appeal are disposed of. Notes of evidence are taken on record and marked as article “X” for the purpose of identification.

(SMT. SADHANA S. JADHAV, J)