

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

**CRIMINAL APPLICATION NO.196 OF 2016
IN
CRIMINAL APPEAL NO. OF 2016**

Mr. Sayyed Meer Mohammedali Applicant

Vs.

Mr. Sayyed Abdul Gani Sardar Respondents
& Anr.

Mr. Prashant D. Patil for the Applicant.
None for Respondent no.1.
Mr. S.V. Gavand, APP for the State.

**Coram : NITIN W. SAMBRE, J.
Date : 28th November 2019**

P.C.:

1. Exhibit 22, a cheque was returned by the banker of the applicant vide Memo Exhibit 23 and letter Exhibit 24.

2. With an intention to invoke the provisions of Negotiable Instruments Act, the applicant caused a notice Exhibit 25 vide acknowledgment Exh. 26 as contemplated under Section 138 of Negotiable Instruments Act.

3. The defence of the accused was that notice Exhibit 25 was not received as the envelope was containing a blank paper. Accordingly, accused wrote a letter to the lawyer of the bank of the applicant-complainant through Exhibit 45 and 47 seeking clarification as to why the blank paper was sent through registered post.

4. Neither the applicant nor his lawyer has clarified the said position. As such, the trial Court was prompted to record finding that the necessary compliances/pre-requisites under Section 138 of Negotiable Instruments Act were not complied with.

5. Upon re-appreciation, no fault could be noticed, which warrant indulgence. Leave refused. The application is rejected.

(NITIN W. SAMBRE, J.)