

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4084 2019

Sangeet Mahaeshwari & Ors. ... **Petitioners**

Versus

Ravi Motilal Maheshwar & Anr. ... **Respondents**

.....

Mr.R.B.Mokashi with Mr.Aditya R. Mokashi, Advocate for the
Petitioners.

Mr.A.R.Kapadnis, APP for the Respondent/State.

....

CORAM : A.M.BADAR J.

DATED : 14th OCTOBER 2019.

P.C. :

1 By this petition, the petitioner, who happens to be
accused in a Complaint Case No.961/SS/2018 pending on the file
of the learned Metropolitan Magistrate, 7th Court, Bhoiwada
Dadar, Mumbai is impugning the revisional Order rejecting
challenge of the petitioners to the Order directing issuance of
process against them in the complaint for the offence punishable
under Section 138 of the Negotiable Instruments Act, 1881
initiated by respondent No.1

2 Heard the learned Counsel appearing for the petitioner.
He drew my attention to the Order dated 20/10/2018 passed by

the learned Magistrate, 7th Court, Bhoiwada, Dadar Mumbai directing issuance of process and submitted that this Order virtually is cyclostyle Order and therefore, reflects non-application of mind by the learned Magistrate. The learned Counsel further drew my attention to Exhibit E (page 34 of the paper book) and pointed out that the cheque in question was non-CTS cheque and validity thereof was up to 31st July and as per Notification of the Reserve Bank of India. Therefore, the same was not the valid negotiable instrument and, as such, the complaint, as framed and filed, was not maintainable.

3 In submission of the learned Counsel for the petitioners, the cheque was even otherwise ought to have dishonoured by the Bank.

4 I have considered the submissions so advanced.

5 It is alleged by the respondent No.1 in his complaint for the offence punishable under Section 138 read with Section 134 of the Negotiable Instruments Act, 1881 that cheque bearing No.585468 dated 11/12/2017 was issued for a valuable consideration in discharge of debt and liability amounting to Rs.14,25,000/-. It is pleaded in the complaint that the statutory notice was duly issued and was served on the accused after dishonour of the said cheque with remark “refer to drawer” by the bank.

6 It is further seen that verification in the form of affidavit came to be filed by the complainant on 20th October 2018 and thereafter, the Order directing issuance of process came to be passed. It appears that the print of the copy of the said Order was taken from the computer and some dates are filled in that Order.

7 It is seen from the record of the complaint that the complainant had made out sufficient ground to proceed against the accused persons. At the stage of issuance of process meticulous examination of the documents and weighing merits of the defence is not warranted. Whatever is argued before this Court can constitute defence before the learned trial Magistrate. However, perusal of the complaint as well as verification statement on affidavit goes to show that sufficient grounds to proceed against the accused are certainly made out and, therefore, no case for interference is made out. As such, the Order :

ORDER

The Petition is dismissed.

(A.M.BADAR, J.)