

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

WRIT PETITION No. 4795 OF 2018

M/s. Niki Gears Pvt. Ltd. & Ors. ...Petitioners

Versus

M/s. A to Z Alloys Pvt. Ltd. & Anr. ...Respondents

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Mr.Hasnain Kazi a/w. Mr.R.K.Shaikh, Mr.Raeed Kazi i/b.
Ms.Shraddha Vavhal for the Petitioners.
Mrs. Veera Shinde, APP for Respondent No.2- State.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED : 16 JANUARY 2019**

P.C.:

1. This Petition is directed against the order dated 8th June, 2018 passed by the learned Metropolitan Magistrate, 70th Court, Mazgaon, Mumbai, thereby issuing process under section 138 read with 141 of the Negotiable Instruments Act against the present petitioners.

2. The learned counsel for the petitioners has submitted that petitioner No.1 is a company and petitioner Nos. 2 and 3 are the directors along with the director, who is original accused No. 2 in

the original complaint. He has further submitted that the said accused No.2, who is not the petitioner, but the director of the company has signed the cheques and the present petitioners are not the signatories to the said cheques. He has further submitted that in sub para 3 of the complaint, the complainant has stated that the petitioners along with accused No.2 were actively involved in the entire transaction from the date of execution of various documents. However, those documents are not produced before the learned Magistrate and so the learned Magistrate has not taken into account those documents, but has issued process only on the basis of the complaint, which is illegal and, therefore, it is to be quashed and set aside.

3. No notice to be sent to the original complainant i.e., respondent No.1.

4. Heard submissions. Perused complaint. In view of the averments made by the original complainant, the offence under section 138 read with 141 of the Negotiable Instruments Act *prima facie* is made out and, therefore, though the documents are not produced along with the complaint, it cannot be said that it was must for the learned Magistrate to see those documents before

issuance of process. No illegality is found in the order dated 8th June, 2018 passed by the learned Metropolitan Magistrate, 70th Court, Mazgaon, Mumbai. Hence, Writ Petition is summarily dismissed.

(MRIDULA BHATKAR, J.)