

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.61/2019

Hemant Purshottam Akolkar

..Vs..

Murlidhar Gangaramji Bhirad

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.V. Sirpurkar, Advocate for the applicant.

CORAM : Z.A. HAQ, J.

DATE : 21.1.2019.

Heard.

The non-applicant has filed two proceedings i.e. Summary Criminal Case No.883/2013 and Summary Criminal Case No.884/2013 under Section 138 of the Negotiable Instruments Act, 1881 against the applicant. The trial progressed and after the recording of evidence and statement under Section 313 of the Code of Criminal Procedure is also recorded, at the stage of arguments, the non-applicant filed applications in both the cases praying that the documents filed in the two cases be returned. The non-applicant states that the documents which were to be filed in Summary Criminal Case No.883/2013 were wrongly filed in Summary Criminal Case No.884/2013 and the documents which were to be filed in Summary Criminal Case No.884/2013 were wrongly filed in Summary Criminal Case No.883/2013. These applications were dismissed by the Magistrate. The non-applicant had challenged the orders passed by the

Magistrate before the Sessions Court in revision applications which are allowed by the impugned orders.

After examining the matter, I find that the documents came to be filed in the wrong proceedings due to sheer inadvertence. The Principal District and Sessions Judge has rightly appreciated the controversy. The conclusions of the Sessions Court are in consonance with the judgment given by this Court in the case of *Gowardhan Das S/o Late Varindmal Awtany V/s. State of Maharashtra & Anr.* reported in **2008 ALL MR (Cri) 175**.

I see no reason to interfere with the impugned orders. The criminal application is **dismissed**.

JUDGE