

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 100 OF 2020
IN
STAMP NUMBER MAIN NO. 236 OF 2020

COSTA CONSTRUCTIONS, A SOLE PROP
CONCERN OF ROYSTON COSTA., ... Applicant

Versus

SHAWN RODRIGUES AND ANR., ... Respondents

Mr. Ryan Da Piedade Menezes, Advocate for the applicant.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 12th June, 2020

P.C.

Heard Shri Ryan Menezes, learned Advocate for the applicant.

2. It was his contention that contrary to the requirements of the provisions of the Negotiable Instruments Act, the learned Magistrate had cast the burden on the complainant to prove that the accused had issued a cheque in discharge of a legally enforceable debt when the law contemplated the availability of the presumption in favour of the complainant under Section 118 and Section 139 of the Negotiable Instruments Act.

3. It is apparent that the learned Magistrate has completely

given a go by to the mandatory requirement contemplated under the Act and wrongly cast the burden on the applicant to discharge the burden of proving that the cheque was issued in discharge of a legally enforceable debt when the presumptions accrued in his favour and that there was no cogent material at the behest of the complainant to discharge the burden as envisaged by law.

4. Looking to the tenor of the judgment so passed by the learned Magistrate leave is granted to the applicant to challenge the impugned judgment in appeal.

5. The application accordingly stands disposed off.

6. Registry to register the appeal.

NUTAN D. SARDESSAI, J.

msr