

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.983 OF 2017

Marshall Breeders Pvt. Ltd. & Ors. ... **Applicants**

Versus

Godrej Agrovet Ltd. & Anr. ... **Respondents**

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Mr.Harshad E. Palwe, Advocate for the Applicants.

Mr.Prasanna Bhangale with Mr.Rakesh L. Singh i/b. M.V.Kini & Co.
Advocate for the Respondent No.1.

Mr.S.V.Gavand, the Additional Public Prosecutor for the
Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 7th JANUARY 2020.

P.C. :

1 By this petition under Section 482 of the Code of Criminal Procedure, the applicants/accused in SCC No.24034 of 2016 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 are challenging the Order directing issuance of process passed against them by the learned trial Magistrate as well as confirmation of the said Order in revision by the learned Additional Sessions Judge, Pune on 19/07/2017.

2 Heard the learned Counsel appearing for the applicants/original accused. He vehemently argued that the cheque in question was not issued by applicant No.1-Company. But averments in the complaint itself shows that it was issued in the account of M/s.C and M Farming Limited. Therefore, process ought not to have been issued against the accused persons.

3 The learned Counsel for the respondent/original complainant drew my attention to the pleadings made in the application as well as grounds raised in the application and contended that undisputedly the cheque was issued by the sister-concern of accused No.1-Company and Directors of both the Companies are same.

4 I have considered the submissions so advanced and also perused the record made available. It is not disputed that the cheque in question was issued by M/s.C and M Farming Company Limited. Averments made in the complaint goes to show that the complainant had supplied animal poultry feed from time to time to accused persons and towards payment of cost of those supplies, a cheque for amount of Rs.12,00,000/- came to be issued under signature of applicant No.2/accused No.2 Elias M. D'souza from the account of M/s.C and M Farming Limited. The complaint is contending specific averments that this Company is sister-concern of accused No.1-Company and the cheque is signed by accused

No.2 Elias M. D'souza on behalf of the accused No.1 and accused No.3 Director.

5 In this view of the matter, no infirmity can be found in the impugned Order of issuance of process and its confirmation by the learned Additional Sessions Judge in revision.

6 The application is, therefore, fails and the same is dismissed.

7 At the request of the learned Counsel for the applicants, interim Order which is operating since beginning is extended by four weeks.

(A.M.BADAR, J.)