

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1259/2019

HANTHUMAL JAIN

...APPLICANT.

V/s.

M/S CHAMPA ENTERPRISES & ANR.

.... RESPONDENTS.

Mr.Nikhil Seth, Advocate for the applicant.

Mr.Jagdish Nagar for respondent no.1.

Mr.A.R.Patil, APP for the State/respondent no.2.

CORAM : A. M. BADAR, J.

DATE : 6th JANUARY, 2020.

P.C. :

1. This is an application under Section 482 of the Code of Criminal Procedure challenging the order passed by the revisional court thereby upholding the order passed by the learned trial Magistrate rejecting the application under Section 319 of the Code of Criminal Procedure moved by the applicant herein/original accused.

2. A complaint for offence punishable under Section 138 of the Negotiable Instruments Act came to be filed before the learned Metropolitan Magistrate by the respondent no.1 herein that is M/s.Champa Enterprises alleging dishonour of cheque of Rs.3 lakh issued by accused therein i.e. the applicant herein Hanthumal Jain, proprietor of Shweta Products. During pendency of the complaint, an application under Section 319 of the Code of Criminal Procedure came to be filed by the original accused for joining Sachin Saini as co-accused in that crime. The said application came to be rejected by the learned trial Magistrate and that rejection is upheld by the learned revisional court.

3. I have heard the learned counsel appearing for the parties. The learned counsel for the applicant herein argued that said Sachin Saini is a fraud person who has misused authority of the accused. He submitted that in several other cases also same issue has cropped up and other prosecutions are also pending. He relied upon Section 141 of the Negotiable Instruments Act as well as Judgment of the **Honourable Apex Court in the matter of G.Ramesh Vs. Kanike Harish Kumar Ujwal decided on 5th April**

2019.

4. Be that as it may, the case in hand is not demonstrating any abuse of process of court. It is not expedient in the interest of justice to interfere in the revisional order. The accused is a proprietary firm and the cheque in question is undisputedly issued by the accused in favour of the complainant. Even if it is misused because of authority given by the accused to some other person, that can at the most be defence of the accused. Therefore the application is rejected. In this view of the matter the applicant can not get any advantage from the ruling in the matter of G. Ramesh (supra).

5. The learned counsel for the applicant has requested for stay of the instant order rejecting the application. Request for stay is refused.

(A. M. BADAR, J.)