

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL WRIT PETITION NO.3429/2019
WITH
CRIMINAL WRIT PETITION NO.4767/2019
WITH
CRIMINAL WRIT PETITION NO.4769/2019
WITH
CRIMINAL WRIT PETITION NO.4770/2019
WITH
CRIMINAL WRIT PETITION NO.4771/2019
WITH
CRIMINAL WRIT PETITION NO.4773/2019
WITH
CRIMINAL WRIT PETITION NO.4774/2019
WITH
CRIMINAL WRIT PETITION NO.4775/2019
WITH
CRIMINAL WRIT PETITION NO.4776/2019
WITH
CRIMINAL WRIT PETITION NO.4777/2019
WITH
CRIMINAL WRIT PETITION NO.4778/2019**

CHANDRAMANI MATAMANI TIWARI ... PETITIONER.

V/s.

**GUFIC BIOSCIENCES LTD.
AND ANOTHER**

... RESPONDENTS.

.....

Mr.Kishor Patil, Advocate, i/b Dipak Mane for the petitioner.
Mr.Girish Kulkarni, i/b Datta H. Pawar and Pratik Thakur for
respondent No.1.

Mr.R.M.Pethe, APP for the State/respondent no.2.

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CORAM : A. M. BADAR, J.

DATE : 22ND JANUARY 2020.

P.C.:

1. By these petitions, the petitioners/accused are praying for quashing and setting aside the complaint cases for the offence punishable under Section 138 of the Negotiable Instruments Act filed against him by the contesting respondents i.e. the original complainant.

2. Heard learned counsel appearing for the petitioners/original accused. He vehemently argued that the subject cheques were subject matter of trial of offences punishable u/s 407, 408, 465, 468, 471, 420 and 120-B r/w 34 of the Indian Penal Code. In that matter, FIR came to

be lodged by respondents/original complainant and the petitioners were chargesheeted. That trial is ultimately culminated into acquittal of the petitioners of alleged offences. It is argued that the witness examined in that case based on police report had specifically deposed that the subject cheques were given as security. With this, it is contended that there is no propriety in continuing complaints for offences punishable under Section 138 of the Negotiable Instruments Act as in parallel proceedings, the petitioners are already exonerated.

3. As against this, learned counsel appearing for respondent/original complainant argued that acquittal in another case based on police report can at the most be the defence in the prosecution for offence punishable u/s 138 of the Negotiable Instruments Act. He further submits that, after recording of plea in complaint cases for offences punishable u/s 138 of the Negotiable Instruments Act,

evidence is also recorded.

4. I have considered the submissions so advanced and also perused the material placed before me. It is seen that the petitioners were prosecuted for Indian Penal Code offences and that prosecution initiated on the basis of the police report resulted in acquittal of the petitioner. However, ingredients of offences punishable u/s 138 of the Negotiable Instruments Act are totally different than the offences with which accused were charged in prosecution initiated on the basis of charge-sheet. Subject complaint cases for offences punishable u/s 138 of the Negotiable Instruments Act are on the stage of recording of evidence. Defence can get all just advantage of acquittal in Indian Penal Code offences by raising appropriate defence in the complaint cases. However, merely on that ground, prosecution for the offences punishable u/s 138 of the Negotiable Instruments Act can not be quashed.

5. In the result, the following order.

ORDER

Petitions are dismissed.

(A. M. BADAR, J.)