

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1239 OF 2005**

Vilas Sonaba PurekarAppellant/Complainant
Vs.

Eknath Ganapati Patil & Anr.Respondents/Accused

Mr. R.P. Walvekar for appellant.

None for respondent no.1.

Ms. Pallavi Dabholkar, APP for State – respondent no.2.

CORAM : K.R.SHRIRAM, J.

DATE : 6th MARCH 2020

P.C.:

1 This is an appeal impugning an order and judgment dated 15th March 2005 passed by the Judicial Magistrate First Class, Court No.6, Kolhapur, acquitting respondent no.1 (accused no.1) of offence punishable under Section 138 (*Dishonour of cheque for insufficiency, etc., of funds in the account*) of the Negotiable Instruments Act, 1881 (the said Act).

2 Mr. Walvekar, counsel appearing for appellant states that he has no instructions because (a) appellant has died and (b) the family members of appellant are not contactable and despite his efforts, he has not been able to obtain instructions.

3 Complainant/appellant is not State. At the inception of the proceedings, complainant/appellant approached this Court with an application to grant special leave to prefer this appeal and only upon granting that, this appeal came on the records of this Court.

4 Offence charged under Section 138 of the said Act is not related to the society at large but only against particular person, i.e., complainant, to

whom certain sum is due under the cheque. Since complainant/appellant itself is not showing any interest in this proceeding and remaining absent, this Court has no option but to revoke the leave granted.

5 In the circumstances, the leave granted stands revoked.

6 Appeal dismissed.

(K.R. SHRIRAM, J.)