

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 496 OF 2019
(LEAVE TO APPEAL)**

Mr. C. Vijay Kumar Reddy	 Applicant
Versus	
M/s. S.P. Developers and Ors.	 Respondents

Mr. Chandrashekhar Yadav i/b Hitesh Vyas, for the applicant.
Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

**CORAM: SARANG V. KOTWAL, J.
DATE : 5th MARCH, 2021**

P.C. :

1. The Office noting shows that the notice issued to the Respondent Nos. 1 and 2 is served on Respondent No. 2. The Respondent No. 1 is proprietary firm of the Respondent No. 2, as stated by learned Counsel for the applicant.

2. Today, nobody appears for the Respondent Nos. 1 and 2. The State of Maharashtra is represented by

learned APP Ms. Pallavi Dabholkar.

3. I have heard Shri Chandrashekhar Yadav, learned Counsel for the applicant. Respondents faced the prosecution for the offence punishable under Section 138 of the Negotiable Instruments Act. The applicant who is the first informant had given amount of Rs. 6,00,000/- for purchasing a flat. The flat was not given and instead a cheque with added interest of Rs. 50,000/- was given, i.e. the cheque of Rs. 6,50,000/- was given to the applicant by the Respondents. That cheque was dishonoured and therefore this prosecution was launched.

4. Learned Counsel for the applicant submitted that the defence taken by the applicant is contrary to the evidence led by the accused by way of defence witness for answering the question recorded under section 313 of Cr.P.C. The accused has stated that the cheque was taken by force by the present applicant. However, in his own evidence, he has stated that the cheque was given

by the accused but it was misused by the applicant and had lodged this false prosecution.

5. Today nobody appears for the Respondents though they served. The applicant has sufficiently made out case for allowing this application. Therefore leave is granted under Section 378(4) of Cr.P.C. to file Appeal against the Judgment and Order of acquittal passed by the Additional C.J.M., Pune in S.C.C. No. 53163 of 2009.

(SARANG V. KOTWAL, J.)