

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5162 OF 2019

Vinod Laltaprasad Mishra

Petitioner

versus

The Union Territory of Dadara and Nagar
Haveli and another

Respondents

Mr.Farooq A. Chowdhary with Shamshad Ahmad M. Shmad,
Advocate for petitioner.

Mr.H.S.Venegavkar, Special P.P. for UOI.

Mr.Arfan Sait, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th July 2022

PC :

1. The petitioner has been prosecuted for the offence u/s.138 of Negotiable Instruments Act. The complaint is filed by respondent no.2. It is pending in the Court of JMFC, Silvassa, Dadra and Nagar Haveli bearing SCC No.242 of 2016.

2. The complainant has alleged that accused contacted him with proposal of business. Amount of Rs.29,53,500/- was advanced to accused. Accused agreed to repay the amount. However, subsequently they took false plea and hence complainant was required to lodge police complaint. The FIR was registered. On 16th August 2016 accused requested the complainant to settle the matter and promised to pay amount within one month and requested to withdraw prosecution. To show his bona fides, the accused issued and handed over two cheques of Rs.25,00,000/- and Rs.4,53,000/- respectively of dated 22nd August 2016 and 22nd September 2016.

The first cheque was deposited by the complainant in his bank which was dishonoured on 23rd August 2016 with the endorsement “account dormant” and the intimation was accordingly received by the complainant from bank. Notice was issued to the accused calling upon them to make payment of the cheque. The amount was not paid although notice was received upon them. Hence complaint was filed u/s.138 of Negotiable Instruments Act. Petitioner was impleaded as accused no.2 whereas his wife was impleaded as accused no.1. Learned Magistrate by order dated 4th January 2018 dismissed the complaint qua accused no.1 whereas issued process against accused no.1 (petitioner).

3. Learned advocate for petitioner submits that there is no liability qua petitioner. The transactions were with accused no.1. The FIR was lodged against accused no.1 The signature of applicant has been forged on the cheques. The bank memo annexed to the complaint is false document. The petitioner has not issued any cheque in respect to liability.

4. I have perused the complaint and documents on record. The averments in the complaint indicate that cheques were issued by the accused. According to complainant, the cheque contains signature of accused. The accused has, however, disputed the signatures. Such plea cannot be considered at this stage. On perusal of cheques it is apparent that name of petitioner has been printed on the said cheques. The submission about genuineness of the documents annexed to the complaint and signatures will be considered at the time of trial. No ground is made out to set aside the order issuing process.

ORDER

(i) Criminal Writ Petition No.5162 of 2019 is rejected and disposed of.

(PRAKASH D. NAIK, J.)

MST