

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPEAL NO.377 OF 2014

(Suparshwa Marketing ..Vs. Gajanan Marketing)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri R. P. Masurkar, Advocate for Appellant.
Shri N. M. Kolhe, Advocate for the Respondent.

CORAM : AVINASH G. GHAROTE, J.

DATE : 11th JULY, 2022.

. The appeal challenges the judgment dated 02.05.2013 passed by the learned Special Court under Section 138 of the Negotiable Instruments Act, 1881, whereby the Respondent/Accused has been acquitted of the said offence.

2. It is not disputed by Shri Kolhe, learned Counsel appearing for the Respondent/Accused, that the cheque bearing no.051004, dated 31.12.2011 for Rs.3,16,253/- drawn on Samata Sahakari Bank Ltd., Rajapeth Branch, Amravati, in favour of the Complainant/Appellant by the Respondent has been dishonored for insufficient funds. However, the point of dispute is that the Accused had no liability *vis-a-vis* the complainant inasmuch as the Accused was not the proprietor of Gajanan Marketing, a concern with whom, the Complainant had entered into an agreement of distributorship on 01.06.2011 (Exh-17).

3. It is not disputed by Shri Masurkar, learned Counsel for the Complainant/Appellant, that the Respondent was not the proprietor of Gajanan Marketing and proprietor of Gajanan Marketing, was one Kamlesh

Bansod. That being the position, admittedly since there was no transaction between the Complainant and the Accused Dinesh Manohar Jirapure, a complaint could not have been filed against Dinesh Jirapure claiming him to be the proprietor of Gajanan Marketing, specifically in view of Exh-17, the distributorship agreement dated 01.06.2011, which has been signed by Kamlesh Bansod as the proprietor of Gajanan Marketing. It is thus apparent, that the Accused had no liability whatsoever *vis-a-vis* the cheque amount as claimed by the Complainant, on which sole ground, I do not see any merit in the appeal and the same is accordingly **dismissed**. No costs.

JUDGE

TAMBE.