

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Revision Application No. 88 of 2021

Dattatray S/o Honaji Patil
Versus
Rahul Mahendraprasad Sharma and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.D.Patil, Advocate for the applicant.
Shri S.K.Bhoyar, Advocate for the non-applicant no.1.
Ms. Shamsi Haider, APP for the State / Non-applicant

**CORAM : ANIL S. KILOR, J.
DATED : 11th NOVEMBER, 2022.**

The applicant has raised a challenge to the correctness and validity of judgment and order dated 28th September, 2021, passed by the learned Sessions Court, Wardha in Criminal Appeal No. 49 of 2015, dismissing the appeal and confirming the judgment and order dated 6th May, 2015 passed by the learned Judicial Magistrate First Class, Wardha in Summary Criminal Case No. 2568 of 2012, thereby convicting the applicant for the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

2. The learned counsel for the applicant has made only one submission that there is no stamp or seal of the bank on the written memo of cheque and therefore no reliance can be placed on such written memo of cheque. He therefore, submits that both the Courts below have committed error in not considering the said legal issue. Accordingly, he prays for remand of the matter.

3. On the other hand, learned counsel for the non-applicant no.1 has opposed the present revision application and submits that this point has never argued or raised either before the trial Court or Appellate Court, and as such this point cannot be raised before this Court for the first time in revision application.

4. Learned Additional Public Prosecutor for the non-applicant no.2/State reiterates the submission of the non-applicant no.1 and prays for dismissal of the present revision application.

5. In the light of submissions of rival parties, I have perused the judgments of both the Courts below and the revision application.

6. After going through the appeal memo filed before the lower Appellate Court and also from the argument recorded by both the Courts below, it can be seen that the above referred point raised before this

Court in this revision application, was never pleaded or raised before both the Courts below. Thus, looking to the limited scope of revision, as the said ground is argued and raised for the first time before this Court, it cannot be entertained.

7. As far as the findings recorded by both the Courts below on merit is concerned, there is no challenge raised to it or no arguments have been made in that regard. Hence, I pass the following order:

- i. Criminal revision application is rejected.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.11.15
12:18:51 +0530