

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

**CRIMINAL APPLICATION (APL) NO. 1364 OF 2021**  
**RCCPL Pvt Ltd...Versus...Taher Ali Abde Ali and ors**

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders or directions  
and Registrar's orders  
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Court's or Judge's orders

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Mr. S.A.Chaudhari, Advocate for the applicant  
Mr. R.D.Hajare, Advocate for Respondent Nos.2 to 5  
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**CORAM : AVINASH G. GHAROTE, J.**

**DATE : 24/03/2022**

1]           Heard Mr. Chaudhari, learned counsel for the applicant. None appears for Respondent No.1, though the record shows that the Respondent No.1 was served. Mr. Hazare, learned counsel appears for Respondent Nos. 2 to 5.

2]           The application seeks the quashment of the proceedings under Section 138 of N.I. Act read with Sections 406 and 420 of the IPC i.e. Summary Criminal Case No. 14285/2021, by invocation of Section 482 of Cr.P.C., as against the present applicant, who is the original accused no. 5.

3]           Mr. Chaudhari, learned counsel for the applicant by inviting my attention to the copy of the complaint (page 18), which indicates that there are no

averments in the complaint, which would indicate the involvement of the accused and therefore, submits that the complaint on the face of it was not maintainable against the applicant/accused no.5.

4] A perusal of the complaint which is under Section 138 of the N.I. Act r/w Sections 406 and 420 of IPC, indicates that the only allegation against accused No. 5 is of taking delivery of the goods and acknowledgment of the receipt of the goods. There is no allegation that the accused no. 5 had any time placed any order with the respondent no.1/complainant or had given any representation, which was false or had issued any cheque in favour of complainant/respondent no.1, which was dishonoured. It is thus apparent that on the face of it, the complaint does not contain any allegations against the applicant/accused no. 5 so as to indicate his involvement in the aforesaid offences, considering which, this is a fit case for exercise of the power under Section 482 of Cr.PC, as permitting the complaint to proceed against the accused No. 5/ applicant would clearly be an abuse of the process of law. Therefore the complaint in so far as it relates the accused no.5/applicant is hereby quashed. It is made clear that the complaint shall proceed as against the original accused Nos. 1 to 4.

5] The application is allowed in above terms and disposed of accordingly. No costs.

**JUDGE**

**Rvjalit**