

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

CRIMINAL APPLICATION (APL) NO.1400 OF 2021

Babita Sanjay Patil,
Aged – 45,
R/o plot No.532, Hanuman Nagar,
Nagpur, Tq and Dist-Nagpur. **APPLICANT**

...V E R S U S...

1. Navneet S/o Bhojraj Lakhotiya,
Aged about 54 yrs, Occu- Business,
R/o Shivaji Chowk (Purisath), Akola Rd,
Akot, Tq. Akot, and Dist-Akola.
2. Sanjay s/o Laxmikant @ Laxmanrao Patil,
Adult, Occu-Business,
R/o plot no. 532, Hanuman Nagar,
Tq. And Dist-Nagpur. **NON-APPLICANTS**

Mr. V. B. Bhise, Advocate for Applicant.
Mr. Kartik Rao, Advocate for Non-Applicant 1.
None for Non-Applicant 2.

CORAM: **VINAY JOSHI, J.**
DATE: **9th JUNE, 2022.**

ORAL JUDGMENT:

By consent of both side, the application is heard
finally.

2. **Admit.**

3. The applicant, who is arraigned as accused no.2 in Criminal Case 597/2009 pending on the file of Judicial Magistrate First Class, Akot, under the provisions of Section 138 of the Negotiable Instruments Act ('N.I. Act') has questioned the maintainability of complaint itself. The challenge is sought on the ground that the applicant is neither the drawer of cheque nor signatory of the same. Merely because she is joint account holder, she has been involved and therefore, she seeks the above said relief.

4. The other side objected the application by supporting the order of issuance of process.

5. So far as factual aspect is concerned, it is not in dispute that the applicant was not signatory to the cheque, but the same cheque was issued by co-accused i.e. her husband. The position in hand is covered by the decision of the Hon'ble Apex Court in case of ***Mrs. Aparna A. Shah v. Sheth Developers Pvt. Ltd. and another***, AIR 2013 SC 3210. This Court has also exactly on the same point has considered the issue and ultimately quashed the proceeding in Criminal Application No.724/2016 vide order dated

25.02.2021. Having regard to the said settled position of law, Criminal Case No.597/2009 is hereby quashed as regards the applicant herein.

6. The learned Magistrate shall continue with the trial as regards the other accused.

7. The application is allowed and disposed of in above terms.

JUDGE

NSN