

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.170 OF 2023

MKV Engineering Through Its Proprietor
Mr. Venkatesh K. Chellam

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Mahesh Kumar for the applicant.

Mr. Arfan Sait, APP for the respondent No.1/State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 10, 2023

P.C.:

1. The accused in a complaint under section 138 of the Negotiable Instruments Act, 1881 is challenging registration of complaint before the learned Metropolitan Magistrate, Mumbai under section 138 read with 142 of the Negotiable Instruments Act, 1881.

2. According to the petitioner, the cheques in question were issued as a security. According to the petitioner, the employees of the complainant/company have stated in a statement recorded under section 161 of the Code of Criminal Procedure, 1973 that the cheques in question were issued as a security. According to him, continuation of proceeding would amount to abuse of process of Court.

3. On perusal of the complaint, prima facie the ingredients of the offence under section 138 read with section 141 of the Negotiable Instruments Act, 1881 are made out. The relevancy of statement of the complainant/company under section 161 can be considered by appropriate Court at the time of trial. Whether the cheque was issued in discharge of legally enforceable liability is a question which needs to be adjudicated at the time of trial. No other ground to show continuation of proceeding being abuse of process of Court has been made out.

4. The criminal application is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)