

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

CRIMINAL APPLICATION NO.1211 OF 2022

Mr. Ganpat Shivaji Jadhav ... Applicant
v/s.
The State of Maharashtra and anr. Respondents

Mr. Dnyaneshwar Deshmukh for the Applicant.
Mr. A.R. Patil, APP for the State.

CORAM: R.G. AVACHAT, J.

DATED : 13th FEBRUARY, 2023.

P. C. :-

. Heard learned counsel for the Applicant and learned APP for the State.

2. The challenge in this Application is to the order of issuance of process under section 138 of Negotiable Instruments Act. The Applicant admits his signature in the cheque. According to him, the signed blank cheque was issued as a security. It is also his case that he was not the only person authorized to sign cheque. It is a public trust. The bank account is operated by the Applicant along with the Chairman. The cheque has been signed only by the Applicant.

3. The fact is however that the cheque has been returned unpaid on account of want of sufficiency of funds. It is also submitted by the

learned advocate for the Applicant that the signature was obtained on a blank stamp paper. Attention of this Court was adverted to the said documents where under the Applicant appears to have agreed to sell the land for consideration of Rs.21,00,000/- and acknowledges receipt of that much amount.

4. Whether this document is a forged one, is a question of fact that can only be looked into by the trial court. The Applicant also claims to be a senior citizen. This cannot be an excuse for exemption from prosecution. The learned advocate for the Applicant would further submit that the Respondent has civil remedy of filing a suit for specific performance and/or return of money allegedly paid in advance. This remedy may be available to the Respondent-complainant. The same does not bar him from proceeding under section 138 of Negotiable Instruments Act.

5. Since whatever submissions have been made by the learned advocate for the Applicant are disputed questions of facts, this can only be gone into by the trial court. Hence, the Application is dismissed.

**PREETI
H JAYANI**

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(R.G. AVACHAT, J.)