

VRJ

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

**CRIMINAL APPLICATION NO.1024 OF 2022
WITH
CRIMINAL APPLICATION NO.1025 OF 2022**

Sharad Duggal ... Applicant

V/s.

Luvkesh Textile Industries

Pvt. Ltd. & Anr. ... Respondents

Mr. Rahul Gaikwad with Mr. Aman Jhawar, & Ms.
Garima Joshi i/by Gravitas Legal for the applicant.

Ms. Sania Sunil for respondent no.1.

Mr. A.R. Patil, APP for respondent no.2/State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 24, 2023

P.C.:

1. The applicant is accused No.5 in a complaint under section 138 of the Negotiable Instruments Act, 1881. According to the complainant, towards discharge of liability based on material supplied by the complainant to the accused No.1/company, both the cheques which was subject matter of both the petitions were issued. In complaint No.1392 of 2022, the cheque which is subject matter of complaint is dated 31st October 2019 for amount of Rs.20,00,000/-; and in complaint No.1394 of 2022, five cheques were issued on 1st November 2019 and remaining three cheques were issued on 15th November 2019. According to the complainant, said cheques were issued by accused No.3 on behalf

of accused No.1/company. In the complaint, the complainant has averred that accused Nos.2 to 5 attend day-to-day affairs of accused No.1/company and are the persons responsible for management of business of accused No.1/company.

2. The learned Magistrate by impugned orders issued process against the applicant. The accused No.5/applicant has filed present application principally on the ground that the applicant resigned from accused No.1/company with effect from 28th July 2019. In support of the said fact Form No.DIR-12 has been placed on record which is unimpeachable document issued by the Registrar of Companies notifying resignation of the applicant on 17th August 2019.

3. There is unimpeachable document on record in the form of Form No.12, indicating resignation of the applicant with effect from 28th July 2019. The cheque which is subject matter of Criminal Application No.1024 of 2022 is dated 31st October 2019 and in Criminal application No.1025 of 2022, the cheques are dated of 1st November 2019 and 15th November 2019. From Form No.12, it is clear that the applicant resigned much before the date of cheques. The applicant has, therefore, made out a case for quashing process issued against him.

4. For the reasons stated above, both the criminal applications are allowed in terms of prayer clause (a). No costs.

(AMIT BORKAR, J.)