



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO. 87 OF 2024

Ramnath Bhausaheb Sadafal,
Age : 40 years, Occu. : Printing Press,
R/o. 15, Chari, Rahata, Tq. Rahata,
Dist. Ahmednagar.

... Applicant
(Orig. Complainant)

Versus

Amol Dattatray Chaudhary,
Age : 48 years, Occu. : Tailoring,
R/o. Astagaon Road Nirmala Niwas,
Bhakti Nagar, Rahata, Tq. Rahata,
Dist. Ahmednagar.

... Respondent.
(Orig. accused)

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Mr. Shailesh S. Chapalgaonkar, Advocate for Applicant.
Mr. B. A. Husale, Advocate for Respondent (Through V.C.)

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 18 NOVEMBER 2025

PRONOUNCED ON : 26 NOVEMBER 2025

ORDER :

1. Original complainant, who instituted proceedings under section 138 of Negotiable Instruments Act against present respondent, is seeking leave to file appeal as present respondent, who acquitted from above charge vide judgment and order dated 19.04.2024.

2. Present applicant filed S.C.C. No.1736 of 2019 on the premise that, complainant conducts business of Printing Press. That,

accused is a tailor and he used to get bill books printed from complainant. Since November 2018 as per order placed by respondent, bill books were printed worth Rs.3,56,000/-. On demand, only Rs.10,000/- was paid and for repayment of remaining amount, two cheques were issued. But, both cheques when presented for realization, were returned dishonoured for the reason "insufficient funds". After legal notice, above proceedings were instituted alleging commission of offence under section 138 of N.I. Act. Present respondent contested the above application dying printing work dues to the tune of Rs.3,56,000/-. Stand taken is that cheques are misused.

3. Learned trial court appreciated the evidence and held that complainant failed to prove his case i.e. drawing of cheque of accused towards legally enforceable debt and thereby acquitted the accused. Now, before this court, original complainant is dissatisfied by the above acquittal.

4. Learned counsel for the applicant - original complainant would submit that, business transaction are neither denied nor issuance of cheque or signatures over it, was disputed. Thus, according to him, there was strong presumption both, under sections 118 and 139 of N.I. Act. Accused failed to rebut the said presumption. That, even learned

trial court failed to appreciate that during festival season, in view of excess orders, bill books were got printed. That, in spite of available of legally enforceable debt, the same has not been correctly appreciated.

5. Present applicant seems to be in the business of Printing Press. On the other hand, respondent is in the tailoring business. Complainant's case is that, present respondent ordered 967 bill books worth Rs.3,56,000/-. On demand, Rs.10,000/- was paid and that towards remaining amount, two cheques were allegedly issued, which got dishonoured.

6. Specific case set up by accused respondent in trial court is that, he did not place order of so many bill books. That, he had lost two cheques and the same were misused. That, ink over the both cheques which were allegedly handed over was distinct and accused has also disowned the signatures on the cheques.

7. On going through complainant's affidavit of evidence, he seems to have failed to demonstrate about order of 967 bill books being placed. He merely has stated that, it was festival season, however, there is nothing in black and white or in any other form regarding placement order of such volume of bill books. Secondly, it seems that the two

cheques in question in spite of being handed over at one and the same time, are not in sequence or serial number and are rather in two different inks i.e. blue and black. There is no explanation for the said variance. As complainant has failed to substantiate that there was legally enforceable debt coupled with the aspect of suspicion over drawing of cheques, in the light of distinct inks over the two cheques, case of complainant cannot be said to be made out as regards to section 138 N.I. Act.

8. Perused the order, which is intended to be questioned. The same seems to be inconsonant with the evidence on record. No patent perversity or illegality is brought to the notice of this court in the findings recorded by learned trial court and hence as no point on merits is made out to accord leave, the application deserves to be rejected. Hence, the following order :

ORDER

- (i) Leave is refused.
- (ii) Application is rejected.

(ABHAY S. WAGHWASE, J.)