

Uday S. Jagtap

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

CRIMINAL APPLICATION NO. 19 OF 2024

M/s. Brilliant International LLP .. Applicant
Vs.
M/s. C.H. Metal Industries LLP & Ors. .. Respondents

....
Mr. Sunil D'Souza for the applicant
Mr. S.H. Yadav, APP for the respondent – State
....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 21st JANUARY, 2025.

P.C.

1. At the outset, learned Counsel for the applicant – original complainant invites my attention to the findings recorded by the trial Court in the impugned order dated 7th February 2023, more particularly, in para 22 wherein it has been observed by the Magistrate that the complainant has not issued statutory notice (demand notice) **Exh.14** to the accused no.1. It is observed that notice has been issued to its partners and in their individual capacity. *Prima facie*, this finding appears to be incorrect in light of the fact that the learned Magistrate answered the second point for determination in the affirmative which states that whether

the complainant prove that accused have issued Cheque no.379852 of Rs. 6,30,000/- dated 23rd January 2018 drawn on Yes Bank Ltd? Once this findings is returned in the affirmative, observations made in para 22 cannot be said to be in consonance with the said findings. Be that as it may.

2. Before leave to appeal is granted, the respondent needs to be heard and as such, issue notice to the respondents returnable on **18th February, 2025**.

3. In addition to the Court's notice, the applicant to serve the respondents by private notice and shall file an affidavit of service before the returnable date.

(PRITHVIRAJ K. CHAVAN, J.)