

sg

31.apl1137-24.docx

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

Criminal Application No.1137 of 2024

Suraj Babulal Shah

Age: 41 years, Business: Consultant

206, Elora Apartment,

Near Railway Station, Nehru Street,

Vapi-396191,

Gujarat, India

... Applicant

versus

1. The State of Maharashtra

2. Export Import Bank of India

Having its head office at

Centre One Building,

Floor No.21,

World Trade Centre Complex,

Cuffe Parade,

Mumbai – 400005

... Respondents

Mr Janam Sonpal, a/w. Ms Esha Gor, for the applicant.

Mr MG Patil, APP, for respondent No.1/State.

Mr Shaunak Sawant, a/w. Ms Sayee Sawant, i/b. Vidhii Partners,
for respondent No.2.

Coram: R.N. Laddha, J.

Date: 25 April 2025.

P.C.:

. Heard the learned Counsel for the parties.

2. The applicant in this case is arraigned as an accused, in a private complaint, bearing C.C. No.2802551/SS/2019, pending before the Metropolitan Magistrate, 28th Court, Esplanade, Mumbai. The complaint led to issuance of process under Section 138 of the Negotiable Instruments Act, 1881.

3. It is a well settled principle of law that the inherent jurisdiction of this Court should be invoked with circumspection and exercised only in exceptional circumstances. This principle gains particular significance in situations where the applicant has access to an alternate and efficacious remedy available under the law, such as filing a revision application before the Sessions Court to challenge the order of issuance of process. In such instances, it is generally inappropriate for this Court to entertain the application under its inherent jurisdiction, as the applicant is expected to exhaust the statutory remedy first. Nevertheless, it is pertinent to clarify that the dismissal of this application on the ground of availability of an alternate remedy does not preclude the applicant from approaching this Court at a later stage. Should the revision before the Sessions Court be unsuccessful, the applicant retains the right to seek relief either by invoking the inherent or writ jurisdiction afresh, thereby ensuring the avenues for redress remain open and accessible.

4. In light of the above, this Court does not find it appropriate to exercise its inherent powers at this stage. Accordingly, the application stands dismissed. However, liberty is granted to the applicant to initiate appropriate proceedings before the Sessions Court, in accordance with the law. The applicant shall also be at liberty to seek condonation of delay, if required, and the Sessions Court shall consider such request on its own merits, ensuring that the applicant is not deprived of an opportunity to pursue justice due to procedural lapse.

5. The application stands disposed of accordingly.

(R.N. Laddha, J.)