

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 956 OF 2011
IN
CRIMINAL APPEAL NO. OF 2011

Yeshwantrao Chavan Shetkari ... Applicant
(Orig. complainant)
vs.
1. Shri Sundar Vyankatraman)
2. The State of Maharashtra).. Respondents
(Resp.No.1 - orig. accused)

Mr. Sachin M. Patil, Advocate, for the applicant.
Mr. Y.M. Nakhwa, APP, for the respondent - State. .

CORAM: J.H.BHATIA,J.

DATE : 2nd September, 2011.

P.C.

1. Heard the learned Counsel for the applicant. Perused the relevant documents.

2. The application is filed for leave to prefer appeal against the order of acquittal for the offence under Section 138 of the Negotiable Instruments Act. According to the applicant/complainant, one Subodh Kadam, proprietor of M/s. Inmark Consultancy Services was indebted to the applicant to the extent of Rs.

42,90,000/-. When the Chairman and other members of the complainant Society went to the office of M/s. Inmark Consultancy Services, the accused/respondent No.1 who was present there issued his own cheque along with a letter dated 4.5.2000. The trial Court acquitted the accused on the ground that there is no material to show that the cheque was issued in discharge of any liability.

3. The learned Counsel for the complainant mainly relied upon the letter dated 4.5.2000 whereby the cheque was handed over by the accused to the complainant. The letter shows that the said cheque payment was made on behalf of M/s. Inmark Consultancy Services.

4. One Jaipal Wadkar, who was in the employment of the complainant-Society as a Secretary, deposed that the accused accepted the liability and issued the cheque. However, in the cross-examination, he admitted that the complainant had no transaction with the accused nor any amount was due from him. It was not mentioned either on the cheque or in the covering letter that as Subodh Kadam the owner of M/s. Inmark Consultancy Services, was unable to make payment, that the accused had taken over the responsibility of making payment and, therefore, in discharge of that liability, he had issued the cheque. Thus, there was no evidence to show that the cheque was issued in discharge of the liability. In

view of this, I find no fault with the impugned order of acquittal.

5. Therefore, leave is refused. Application stands rejected.

(J.H.BHATIA,J.)