

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.61 OF 2015**

Devgiri Nagri Sahakari Pat-Sanstha  
Maryadit, Aurangabad,  
Through Anil s/o Kachru Sultane,  
Age-24 years, Occu:Service,  
R/o-Shiveshwar Colony, Plot No.14,  
Mayur Park, Aurangabad

**...APPLICANT**

**VERSUS**

Gajanan s/o Eknath Pawar,  
Age-35 years, Occu:Service,  
R/o-Mahora, Tq-Jafrabad,  
Dist-Jalna.

**...RESPONDENT**

...  
Mr. Satish A. Gaikwad Advocate for Applicant.  
...

**CORAM: A.I.S. CHEEMA, J.**

**DATE : 26TH NOVEMBER, 2015**

**ORDER :**

1. Heard learned counsel for the Applicant.  
According to the counsel, Respondent-original  
accused was employee of the Applicant-original

complainant and there was misappropriation done by the Respondent and when it was pointed out, the Respondent issued cheque of Rs.45,272/-(Rupees Forty Five Thousand Two Hundred Seventy Two only), which on presentation bounced, and thus the criminal prosecution was filed. The counsel submits that the trial Court has acquitted the accused on the basis that legal liability to pay the amount was not established.

2. The cheque issued was of Rs.45,272/-, which itself indicates calculated amount. When accused issued cheque, there had to be reason for it. Going through the reasonings recorded by the trial Court, it appears necessary to grant leave and to reconsider the evidence and law on the subject.

3. For the above reasons, Application is allowed. Leave is granted. Application be converted into Appeal.

4. Appeal is **Admitted**.
5. Paper Book be got prepared.
6. Action under Section 390 of the Code of Criminal Procedure be taken against the Respondent-accused in the trial Court.

**[A.I.S. CHEEMA, J.]**

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