

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

CRIMINAL APPLICATION NO. 246 OF 2014

Doorwani Karmachari Sahkari
Patsanstha Maryadit, Shrirampur
Through its Chairman
Shri Raosaheb Raghunath Narwade,
Age: 48 years, Occu. Service,
R/o Shrirampur, Tq. Shrirampur,
Dist. Ahmedpur.

...Applicant

versus

Kandabala Sanjay Ohal,
Age: Major, Occu: retired
R/o Krupa Cottage, Station Road
Ahmednagar, Tq. Nagar,
Dist. Ahmednagar

...Respondent

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Mr. R.A. Tambe, Advocate for Applicant
Ms. A.N. Ansari, Advocate for respondent.

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

DATED : 12TH JANUARY, 2015

Order :-

1. Heard Mr. Tambe, learned counsel for applicant - original complainant and Ms. Ansari, learned counsel for respondent-original accused, finally. Perused the record.

2. Mr. Tambe, learned counsel for applicant submits that the trial court has not properly appreciated the account extract filed by Doorwani Karmachari Sahkari Patsanstha Maryadit, Shrirampur (hereinafter referred to as "the Society" for short) and wrongly held that account was vague. The respondent-herein was member of the society and had taken loan and a cheque issued by him towards repayment of loan, bounced. Learned counsel further submits that finding recorded by the trial court was erroneous and needs to be interfered with.

3. Learned counsel appearing for respondent points out that on record respondent-original accused had filed original cheque book. On counter foil of the cheque in dispute, there is signature of then Secretary with date 30-09-2006. According to learned counsel for the respondent, for earlier transaction, present cheque was issued, which was misused and the trial court rightly come to the conclusion that outstanding debt was not proved when the cheque was actually issued on 30-09-2006.

4. Learned counsel for the respondent argued that the trial court has rightly appreciated the evidence and account extract was found to be vague as trial court discussed the evidence where witnesses of the applicant-complainant accepted that accused had issued cheque on 23-07-2007 of Rs.1,00,000/- and a cheque of Rs. 20,000/-. This did not reflect in the account. The trial Court observed that it is not shown that towards any other loan transaction the accused had issued the two cheques. Learned counsel submitted that the documents, which have come on record and evidence clearly shows that the case as was tried to be made out by the applicant-original complainant was not true and that same was doubtful. Learned counsel for the respondent submits that the respondent on his retirement cleared the loan, which she had taken and against that she had issued cheques in 2007. According to learned counsel for respondent, the trial court has rightly acquitted the respondent-original accused and thus respondent-herein deserves to be acquitted.

5. Going through the evidence available as well as the Judgment and reasonings recorded by the trial Court, the view taken by the trial Court is possible view of the evidence available and once acquittal is recorded, it will not be appropriate to interfere.

6. There is no substance in the Application. The Criminal Application stands rejected.

Sd/-

(A.I.S. CHEEMA, J.)

MTK