

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

Criminal Application No. 180 of 2015

Shri Yogeshwar Nagari Sahakari
Patsanstha Maryadit, Dhule.

.. Applicant.

Versus

Suhas Dattatraya Wani
And Another.

.. Respondents.

Shri. Mukul S. Kulkarni, Advocate, for applicant.
Shri. A.D. Kasliwal, Advocate, for respondent No.1.
Shri. S.A. Ambad, Additional Public Prosecutor, for
respondent No.2.

CORAM: T.V. NALAWADE, J.

DATE : 22nd JULY 2015

ORDER:

1) The application is filed for grant of leave to file appeal against the judgment and order of S.T.C.C. No. 2590/2006 which was pending in the Court of the Judicial Magistrate First Class Dhule. The Magistrate has acquitted respondent in a case filed under section 138 of the Negotiable Instruments Act. Learned counsel for the applicant is heard. Some hearing was given to the learned counsel for respondent No.1 also though the respondent No.1 has *locus standi* at this stage.

2) It appears that the learned Magistrate has acquitted the accused due to one circumstance like under one cheque amount of Rs.4,90,294/- was deposited in the savings account of the accused when the loan of Rs. Ten lakh was sanctioned and it was shown to be disbursed. There is mention of account extract in the reasoning. Though the accused has given evidence that he has not received entire amount, at least amount of Rs.4.90 lakh is shown to be actually deposited in the savings account. Mode of disbursement may be others also. As the complainant is a cooperative society and the complainant in such matter has some record, this Court holds that there is arguable case for the applicant, society.

3) In the result, the application is allowed. Leave is granted.

4) Appeal is admitted. Notice after admission, it is waived by learned counsel for the respondents.

Sd/-
(T.V. NALAWADE, J.)

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