

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1165 OF 2013

Ambadas S/o Narayan Maslekar

.. Applicant
(Orig. Complainant)

Vs.

Sow. Kalpana W/o Vinod Muley

.. Respondent
(Orig. Accused)

Mr. A.B. Dhongade, Advocate for the applicant

Mr. B.V. Virdhe, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 30/04/2015

ORAL ORDER :

1. Heard both sides.
2. Reading of the impugned judgment would show that for non-service of the notice and doubting the financial ability of the present applicant-complainant, inter-alia, the complaint of the present applicant for the offence punishable under section 138 of the Negotiable Instruments Act was dismissed and the respondent was acquitted.
3. Learned counsel for the applicant submits that in-fact, the envelope would show that the Postman has

kept the postal envelope with him with intimation to the respondent, however, the respondent did not remain present at his house and ultimately the envelope was returned. Further, certain material regarding the improbability of the defence of the loss of the cheque is also argued.

4. In the circumstances, without making any further comment on the merit of the case, finding that arguable case is made out, leave to file appeal is hereby granted. Criminal Application no. 1165 of 2013 accordingly is allowed and disposed of.

5. Office to register the appeal as per due procedure of law. Upon registration, the appeal stands admitted. Mr. B. V. Virdhe waives notice for the respondent after admission of the appeal.

6. Learned Judicial Magistrate First Class is directed to take action under section 390 of the Code of Criminal Procedure by releasing the present respondent – Sow. Kalpana W/o Vinod Muley, upon her executing P.R. bond in the sum of Rs.10,000/- (Rs. Ten Thousand) and also upon her furnishing surety in the like amount.

7. The present respondent – Sow. Kalpana W/o Vinod Muley shall remain present before the concerned Judicial Magistrate First Class on or before 1st July, 2015 for facilitating the compliance of the present order.

8. Learned counsel for the respondent seeks hamdast of the present order.

9. Hamdast granted.

[M.T. JOSHI]
JUDGE

arp/