

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

**CRIMINAL APPLICATION NO. 1789 OF 2014**

Mr. Milind S/o Manikrao Kulkarni ...Applicant

versus

Mr. Sunil Sureshrao Deshpande  
and another ...Respondents

.....

Mr. V.Y. Bhide, Advocate for applicant.  
Mr. A.M. Gholap, Advocate for respondent No. 1  
Mr. D.V. Tele, A.P.P. for respondent No. 2

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

**DATED : 30TH JANUARY, 2015**

**Order :-**

1. Heard learned counsel for both sides. Perused the record.
2. Learned counsel for both sides strenuously referred to different observations made by the trial court to canvass their points.
3. Learned counsel for applicant points out that the trial court wrongly called for the account opening forms from the bank and compared the signatures at the stage of argument and thus misdirected.
4. Learned counsel for respondent No. 1 referred to the observations made by the trial court to show that the applicant

had failed to answer regarding capacity of complainant to advance amount as claimed by him and that legally enforceable debt was not established.

5. Looking to the arguments mentioned above and considering the Judgment of the trial Court, there appears to be an arguable case which requires this Court to reconsider and re appreciate the evidence. As such, leave is granted. The application is allowed.

6. Application be converted into appeal.

7. Appeal is ***admitted***.

8. Paper-book be got prepared.

9. Action under section 390 of the Code of Criminal Procedure be taken against respondent No. 1 - original accused in the trial court and call brief compliance report.

10. Mr. Gholap, learned counsel waives service for respondent No. 1 and Mr. Tele, learned A.P.P. waives service for respondent No. 2.

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