

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

CRIMINAL APPLICATION NO.1908 OF 2014

Mahaveer Nagari Pat-Sanstha Ltd. ... APPLICANT

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Shri R.R. Mantri, Advocate holding for
Shri R.R. Sancheti, Advocate for applicant
Mrs. R.K. Laddha, A.P.P. for State
.....

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

DATED: 5th January, 2015.

ORAL ORDER :

1. Heard counsel for the applicant. Perused record. Learned counsel refers to the fact that the complainant is a Pat-Sanstha, which had advanced loan for construction of house. According to the counsel, the trial Court accepted that the loan was advanced, but for untenable reasons, acquitted the accused, stretching the point of service of notice and that there was some discrepancy in the amount outstanding. Learned counsel relies on the case of **C.C. Alavi Haji Vs. Palapetty Muhammed & anr.**, reported in **AIR 2007 SC (Supp) 1705** to submit that if

the accused claims that notice was not duly served, he should have deposited the money in Court on receipt of summons.

2. Going through the matter, it appears that there is an arguable case. The application is allowed. Leave is granted. Application is converted into appeal.

3. Appeal is **admitted**.

4. Learned A.P.P. waives service for respondent No.1/ State after admission of appeal.

5. Paper Book be got prepared.

6. Action under Section 390 of the Code of Criminal Procedure be taken against the respondent No.2 - accused in the trial Court.

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