

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1934 OF 2013

Kanhaiyalal Gramin Bigar Sheti,
Sahakari Patsanstha Ltd., Sakri,
Through Vijay Mukundrao Bhosale,
Age-Major, Occu:Service,
R/o-Sakri, Tq-Sakri, Dist-Dhule.

...APPLICANT
(Orig. Complainant)

VERSUS

Shobha Bhatu Deore,
Age-Major, Occu:Agriculture,
R/o-Mhasadi, Tq-Sakri,
Dist-Dhule.

...RESPONDENT
(Orig. Accused)

...
Mr. Nilesh N. Desale Advocate for Applicant.
Mr. Mukul S. Kulkarni Advocate for Respondent.
...

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

DATE : 13TH FEBRUARY, 2015

ORDER :

1. Heard learned counsel for Applicant and
learned counsel for Respondent. Perused record.

2. Learned counsel for Applicant submits that the Applicant - complainant is Patsanstha and the Respondent - accused was member of the Sanstha to whom loan was advanced and for recovery of the amount, cheque was issued by the accused. The said cheque bounced and thus according to the counsel, there is no justification for acquitting the accused.

3. The learned counsel for Respondent submitted that trial Court found that there was no debt of Rs.3,61,750/- on 30th August 2007, on the date of cheque. The account extract of the complainant Sanstha shows that the amount due on 14th August 2007 was less. According to him, trial Court rightly discussed evidence in Para 11 of its Judgment and acquitted the accused.

4. The learned counsel for Applicant is submitting that these were documents filed by the

Applicant - complainant and although the account extract shows that on 14th August 2007, amount of Rs.3,00,068/- was outstanding as per extract, the same account of extract showed that the rate of interest was 18% per annum. The trial Court, however, went on to observe that there is no material on record to quantify the amount of interest and has committed the error.

5. The learned counsel for Applicant submits that if the amount is calculated, it will become clear that the amount as per cheque was due.

6. Going through the Judgment and reasons, 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. Application be converted into Appeal.

7. Appeal is **Admitted**. Mr. Kulkarni, learned

counsel dispenses with notice for Respondent after admission of the Appeal.

8. Action under Section 390 of Cr.P.C. be taken against Respondent-accused in the trial Court and brief report be called.

9. Paper Book be got prepared.

[A. I. S. CHEEMA, J.]

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