

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

Saraswati Co-operative Credit Society .. Applicant

Shital Gopichand Darda .. Respondent

CORAM : M.T. JOSHI, J.

ORAL ORDER :

2. The reasoning of the learned Judicial Magistrate First Class, Bhusawal would show that the recovery certificate was directed to be issued by the concerned authorities as per the provisions of section 101 of the Maharashtra Co-operative Societies Act, 1960, against the other guarantors, namely, Jivatram and Kailas Dubole and not against the present respondent.

Instruments Act is that towards the satisfaction of the payment of the amount due to the original debtor, and towards the satisfaction of the recovery certificate, the present respondent as one of the guarantor had issued the cheque.

4. Since there was no recovery certificate issued by the Assistant Registrar, Co-operative Societies against the present respondent, the learned Judicial Magistrate First Class came to the conclusion that there is no legally enforceable debt against the present respondent.

5. The learned Judicial Magistrate First Class has given a reasoned view for acquittal of the respondent from the offence punishable under section 138 of the Negotiable Instruments Act. Therefore, granting of leave to file appeal against the impugned order, would be an exercise in futility. Leave refused. Application is accordingly dismissed.

[M.T. JOSHI]
JUDGE

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