

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

CRIMINAL APPLICATION NO. 2561 OF 2013

Shaikh Shahajahan Mohd Mustafa ...Applicant

versus

Ramesh R. Ujgare and another ...Respondents

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Mr. S.S. Gangakhedkar , Advocate for Applicant
Mr. Prasad B. Kadam, Advocate holding for
Mr. S.J. Salunke , Advocate for respondents No. 1 and 2
Mr. K.S. Patil, A.P.P. for respondent No. 3

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

DATED : 12th JANUARY, 2015

Order :-

1. Heard learned counsel for both sides.
2. Learned counsel appearing for applicant submits that the applicant was appointed as a teacher in the Ashram School, run by respondents No. 1 and 2 - original accused, but she was not paid salary and the amount of salary was outstanding, for which respondents no. 1 and 2 after long period have issued cheque. However, the same bounced. According to learned counsel, trial court resorted to wrong reasoning to discard the evidence and acquitted the accused persons.
3. Learned counsel appearing for respondents No. 1 and 2 submits that trial court has rightly appreciated the evidence and observed that complainant failed to prove as to what was the salary and what was outstanding amount and thus rightly acquitted the accused persons.

4. If amount was not outstanding, there was no reason for respondents No. 1 and 2 - original accused to issue cheque of Rs. 2,00,000/-. The evidence needs to be re-appreciated. There is arguable case. As such, the application is allowed.

5. Application be registered as an Appeal.

6. Appeal is ***admitted.***

7. Mr. Kadam, learned counsel waives service for respondents No. 1 and 2 and Mr. Patil, learned Additional Public Prosecutor waives service for respondent No. 3, after admission.

8. Action under section 390 of Code of Criminal Procedure be taken against respondents No. 1 and 2 original accused.

9. Paper book be got prepared.

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