

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO. 2595 OF 2013**

THE STATE OF MAHARASHTRA
VERSUS
CHANDRAKANT PANDURANG BACHPALLE

...
APP for Applicant : Mr. S.G. Karlekar
Advocate for Respondent : Mr. A. N. Irpatgire

...
CORAM : S.S. SHINDE & A.M. BADAR, JJ.
Dated: February 10, 2015

...
PER COURT :-

Heard.

2. The learned Chief Judicial Magistrate, Latur convicted the respondent under Section 409 of Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs. 5,000/-, in default to suffer simple imprisonment for six months.

3. Being aggrieved, the Respondent filed appeal. In appeal, the judgment of the Chief Judicial Magistrate is reversed and appeal is allowed.

4. Upon perusal of the judgment of the Appellate Court, we find that, there is no discussion about exhibit 115 on record. It appears that, in pursuant to the resolution passed by the Society the Chairman received the amount,

however, as per allegation same has not been deposited. This aspect has not been considered by the Appellate Court. Hence this is fit case to allow the application. The application is allowed in terms of prayer clauses 'A', 'B', 'C' and 'D' and same stands disposed of.

5. Since the respondent is represented and assured this Court that, as and when presence of the Respondent is necessary, respondent will remain present. In that view of the matter and in peculiar facts of this case, action under section 390 of the Criminal Procedure Code is not ordered.

6. **Appeal is admitted.** Mr. A.N. Irpatgire waives service on behalf of Respondent.

(**A.M. BADAR, J.**)

(**S.S. SHINDE, J.**)

sga/-

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