

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

CRIMINAL APPLICATION NO.3123 OF 2014

The Maharashtra State Co-operative
Marketing Federation, Mumbai,
through the District Marketing Officer,
Aurangabad, Shri Ramprasad s/o Dagduba Dand,
Age 49 years, Occ. Service, R/o Aurangabad,
Taluka and District Aurangabad ... APPLICANT

VERSUS

M/s Raju Traders,
through its Proprietor,
Sau. Sujata w/o Sunil Lalwani,
Age major, Occ. Business,
R/o Lane No.2, Agra Road, Dhule ... RESPONDENT

.....
Shri A.R. Tapse, Advocate holding for
Shri D.N. Suryawanshi, Advocate for applicant
Shri Mukul S. Kulkarni, Advocate for respondent
.....

WITH

CRIMINAL APPLICATION NO.3124 OF 2014

The Maharashtra State Co-operative
Marketing Federation, Mumbai,
through the District Marketing Officer,
Aurangabad, Shri Ramprasad s/o Dagduba Dand,
Age 49 years, Occ. Service, R/o Aurangabad,
Taluka and District Aurangabad ... APPLICANT

VERSUS

M/s Raju Traders,
through its Proprietor,
Sau. Sujata w/o Sunil Lalwani,
Age major, Occ. Business,

R/o Lane No.2, Agra Road, Dhule ... RESPONDENT

.....

Shri A.R. Tapse, Advocate holding for
Shri D.N. Suryawanshi, Advocate for applicant
Shri Mukul S. Kulkarni, Advocate for respondent

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WITH

CRIMINAL APPLICATION NO.3125 OF 2014

The Maharashtra State Co-operative
Marketing Federation, Mumbai,
through the District Marketing Officer,
Aurangabad, Shri Ramprasad s/o Dagduba Dand,
Age 49 years, Occ. Service, R/o Aurangabad,
Taluka and District Aurangabad ... APPLICANT

VERSUS

M/s Raju Traders,
through its Proprietor,
Sau. Sujata w/o Sunil Lalwani,
Age major, Occ. Business,
R/o Lane No.2, Agra Road, Dhule ... RESPONDENT

.....

Shri A.R. Tapse, Advocate holding for
Shri D.N. Suryawanshi, Advocate for applicant
Shri Mukul S. Kulkarni, Advocate for respondent

.....

WITH

CRIMINAL APPLICATION NO.3126 OF 2014

The Maharashtra State Co-operative
Marketing Federation, Mumbai,
through the District Marketing Officer,
Aurangabad, Shri Ramprasad s/o Dagduba Dand,
Age 49 years, Occ. Service, R/o Aurangabad,
Taluka and District Aurangabad ... APPLICANT

VERSUS

M/s Raju Traders,
through its Proprietor,
Sau. Sujata w/o Sunil Lalwani,
Age major, Occ. Business,
R/o Lane No.2, Agra Road, Dhule ... RESPONDENT

.....
Shri A.R. Tapse, Advocate holding for
Shri D.N. Suryawanshi, Advocate for applicant
Shri Mukul S. Kulkarni, Advocate for respondent
.....

WITH

CRIMINAL APPLICATION NO.3127 OF 2014

The Maharashtra State Co-operative
Marketing Federation, Mumbai,
through the District Marketing Officer,
Aurangabad, Shri Ramprasad s/o Dagduba Dand,
Age 49 years, Occ. Service, R/o Aurangabad,
Taluka and District Aurangabad ... APPLICANT

VERSUS

M/s Raju Traders,
through its Proprietor,
Sau. Sujata w/o Sunil Lalwani,
Age major, Occ. Business,
R/o Lane No.2, Agra Road, Dhule ... RESPONDENT

.....
Shri A.R. Tapse, Advocate holding for
Shri D.N. Suryawanshi, Advocate for applicant
Shri Mukul S. Kulkarni, Advocate for respondent
.....

WITH

CRIMINAL APPLICATION NO.3128 OF 2014

The Maharashtra State Co-operative
Marketing Federation, Mumbai,

through the District Marketing Officer,
Aurangabad, Shri Ramprasad s/o Dagduba Dand,
Age 49 years, Occ. Service, R/o Aurangabad,
Taluka and District Aurangabad ... APPLICANT

VERSUS

M/s Raju Traders,
through its Proprietor,
Sau. Sujata w/o Sunil Lalwani,
Age major, Occ. Business,
R/o Lane No.2, Agra Road, Dhule ... RESPONDENT

.....
Shri A.R. Tapse, Advocate holding for
Shri D.N. Suryawanshi, Advocate for applicant
Shri Mukul S. Kulkarni, Advocate for respondent
.....

WITH

CRIMINAL APPLICATION NO.3129 OF 2014

The Maharashtra State Co-operative
Marketing Federation, Mumbai,
through the District Marketing Officer,
Aurangabad, Shri Ramprasad s/o Dagduba Dand,
Age 49 years, Occ. Service, R/o Aurangabad,
Taluka and District Aurangabad ... APPLICANT

VERSUS

M/s Raju Traders,
through its Proprietor,
Sau. Sujata w/o Sunil Lalwani,
Age major, Occ. Business,
R/o Lane No.2, Agra Road, Dhule ... RESPONDENT

.....
Shri A.R. Tapse, Advocate holding for
Shri D.N. Suryawanshi, Advocate for applicant
Shri Mukul S. Kulkarni, Advocate for respondent
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WITH

CRIMINAL APPLICATION NO.3130 OF 2014

The Maharashtra State Co-operative
Marketing Federation, Mumbai,
through the District Marketing Officer,
Aurangabad, Shri Ramprasad s/o Dagduba Dand,
Age 49 years, Occ. Service, R/o Aurangabad,
Taluka and District Aurangabad ... APPLICANT

VERSUS

M/s Raju Traders,
through its Proprietor,
Sau. Sujata w/o Sunil Lalwani,
Age major, Occ. Business,
R/o Lane No.2, Agra Road, Dhule ... RESPONDENT

.....
Shri A.R. Tapse, Advocate holding for
Shri D.N. Suryawanshi, Advocate for applicant
Shri Mukul S. Kulkarni, Advocate for respondent
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CORAM: A.I.S. CHEEMA, J.

DATED: 11th March, 2015.

ORAL ORDER :

1. Heard Mr. Tapse, learned counsel holding for Mr. Suryawanshi, learned counsel for the applicant and Mr. Kulkarni, learned counsel for respondent in all the matters.

2. Counsel for respondent – original accused has referred to the applications for leave and the concerned documents filed as well as copy of the judgment. He submits

that, the trial Court considered the fact that the notice in this matter was not duly served. The trial Court considered that the cheques issued were towards security. Another ground was that the resolution to prosecute the respondent – accused has not been placed on record. Yet another reason for acquittal was that the witness examined by the complainant could not give details of goods delivered, amounts received etc.

3. I have gone through the applications and the concerned record. The complaints were filed by Maharashtra State Cooperative Marketing Federation, which is creation under Maharashtra Cooperative Societies Act, 1960. The applicant – complainant brought about the complaint, claiming that the complainant had supplied fertilizers and other articles to the respondent – accused on credit and there were outstanding amounts which were settled and the concerned cheques were issued. These are apparently commercial transactions. The accused raised defence that the cheques issued were for security. It appears, the complainant had taken Bank guarantees and thus, stand was taken that when Bank guarantee is there, there is no question for taking cheques as security. Although the respondent – accused issued cheques, the trial Court has given weightage to the fact that the witnesses of the complainant could

not give details of the fertilizers etc. Cheques issued attract their own liabilities and presumptions.

4. There appears to be arguable case. It appears necessary to reappreciate evidence in these matters. All the applications are allowed. Applications are converted into appeal.

5. All Appeals are **admitted**.

6. Mr. Kulkarni, learned counsel dispenses with notice for respondent after admission of appeals.

7. Paper Books be got prepared in the matters.

8. Action under Section 390 of the Code of Criminal Procedure be taken against the respondent – accused in all these matters in the trial Court and brief reports of compliance be called.

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