

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

CRIMINAL APPLICATION NO. 3997 OF 2014

Omsing Dayalsing Thakur,
Age: 45 years, Occu. Business,
R/o Bhagya Nagar, Nanded.

...Applicant

versus

Santosh Namdeo Sagne,
Age: Major, Occu. Business,
R/o Aditya P.C. Solution,
Lohiya complex, Anand Nagar,
Nanded.

...Respondent

.....
Mr. Ashish B. Shinde, Advocate for Applicant
.....

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

DATED : 12th MARCH, 2015

Order :-

1. Heard learned counsel for applicant. Perused the record.
2. Learned counsel for applicant - original complainant submits that the respondent - accused was friend and well acquainted with complainant. The accused was in need of money, therefore, hand-loan of Rs.2,00,000/- was given to him on 10-08-2010. Accused issued cheque dated

15-10-2010, which bounced and thus the complaint was filed.

3. Learned counsel for applicant - original complainant submits that the complainant brought on record the necessary evidence to prove that he had given amount to the respondent- original accused and the cheque given by respondent-accused, bounced. But still, according to the learned counsel, the trial Court has wrongly appreciated the evidence and acquitted the respondent- accused.

4. Going through the material on record, it can be seen that although the complainant had given money on 10-08-2010 before the "witnesses", the trial Court noticed that regarding giving of money except the complainant no other witnesses were there. The trial Court noticed that the complainant had not taken any receipt of money given to the accused. The trial Court also noticed that although the income of the complainant appears to be of Rs. 5,00,000/- per year, and he is educated, still he claims that he did not file income tax returns. The trial Court referred to the judgment in the case of ***Sanjay Mishra Vs. Kanishka Kapoor @ Nikki Another reported in 2009(4) Mh.L.J.,***

155 and came to the conclusion that money claimed appears to be unaccounted and it was not legally enforceable debt. The trial Court giving reasonings appreciated the whole evidence as to why accused deserves to be acquitted.

5. Going through the material available and reasonings recorded by the trial Court, the view taken by the trial Court is a possible view of the evidence. There is no case made out to grant leave.

6. There is no substance in the Application. The Criminal Application stands rejected.

Sd/-

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

MTK