

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram, Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 4433 OF 2014

VAIJNATH SARAF MARTHWADA NAGARI CO OPERATIVE
BANK LTD
VERSUS
SAGAR S/O VAIJNATH DARGU

...
Advocate for Applicant : Mr. Agrawal Pavankumar S.

CORAM: T. V. NALAWADE, J.
DATED: 10th August, 2015.

PER COURT:

1. The application is filed under section 378 (4) of Cr.P.C. for grant of leave to file appeal against judgment and order of SCC No.436 of 2007 which was pending in the Court of learned J.M.F.C., Hingoli. In a case filed by the applicant, cooperative bank, for offence punishable under section 138 of Negotiable Act the trial Court has acquitted the respondent. Notice of the proceeding is served on the Respondent, but nobody has turned up.
2. This Court has gone through the record and reasoning given by the trial Court. The accused has not

examined himself to lead defence evidence. He admitted that there was some loan transaction. It was suggested that the transaction was in the year 2000. The cooperative bank has come with a case that the transaction was of the year 2003 and it was for Rs.1.03 Lakh. The trial Court has given much importance to this discrepancy and has held that no new documents are produced which ought to have been executed. Learned counsel for the applicant submitted that it is a credit cooperative bank and when it was a cash credit transaction the renewal of the loan transaction is always there and this circumstance is not considered. The learned counsel for the applicant submitted that the accused has not disputed that he was a defaulter and in view of this circumstance the provision of section 118 and 139 of Negotiable Instruments Act ought to have been used by the trial Court. This Court holds that there is good and arguable case.

3. In the result, application is allowed. Leave is granted to file appeal.

4. Appeal is admitted.

5. Notice, after admission, returnable on 15th

-(3):-

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September, 2015.

[T. V. NALAWADE, J.]

Dt.10/08/2015
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