

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3993 OF 2013

Godavari Urban Co-operative
Bank Ltd., Nanded Through its
Branch Manager
Ram Devidasrao Kalyankar
Age 30 years, Occu – Service
Having Office address at Vazirabad,
Nanded

.. Applicant

Vs.

1] The State of Maharashtra

2] Kishan Namdev Bhokare

Age 47 years, Occu.- Business,

R/o : Old Kautha, Tal & Dist. Nanded

.. Respondents

Mr. Ravindra B. Narwade Patil, Advocate for the applicant

Mr. S.B. Pulkundwar, A.P.P. for the respondent-State

Mr. A.A. Mukhedkar, Advocate for respondent no.2

CORAM : M.T. JOSHI, J.

DATE : 17/11/2015

ORAL ORDER :

1. Heard both sides.

2. Aggrieved by the acquittal of the respondent from the offences punishable under section 420, 421, 423 of the Indian Penal Code, the original complainant wants to prefer appeal and, therefore, the present application for leave to file appeal is filed.

3. In short, the complainant's case is that despite execution of mortgage deed of the property to secure the loan of Rs.30,000/- granted to the respondent no.2, he sold the said property to a third party and has thus deceived the complainant-appellant.

4. Before the learned Judicial Magistrate First Class, Nanded it has become an admitted fact that the loan was sanctioned to the respondent no.2. The complainant has examined the then Branch Manager, the Notary, before whom the mortgage deed was executed. The learned Judicial Magistrate First Class however held that the execution of the mortgage deed is not proved. In view of the learned Judicial Magistrate First Class, the role of the Notary was limited and he cannot be a witness to the execution of the document.

5. Considering all these facts on record, in my view, arguable case is made out. In the circumstances, Application is allowed and disposed of. Leave to file appeal is hereby granted.

6. Appeal be registered as per the due procedure.

[M.T. JOSHI]
JUDGE

arp/