

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

CRIMINAL APPLICATION NO. 4132 OF 2012

Shri Gajanan Maharaj Gramin Bigar
Sheti Sahakari Society Ltd.
Muktainagar, through Manager

...Applicant

versus

Sonu Deoba Koli

...Respondent

.....

Mr. P.B. Salunke, Advocate for applicant
Mr. V.B. Patil, Advocate for respondent

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CORAM : A.I.S. CHEEMA, J.
DATED : 12th JANUARY, 2015

Order :-

1. Heard learned counsel for both sides.
2. Learned counsel appearing for applicant submits that trial court resorted to untenable reasoning when cheque bounced and the bank memo mentioned that full cover was not received. The trial court observed this, but it does not mean that there was insufficient amount in the account. According to the learned counsel, the trial court has not considered that respondent-accused had taken loan as a member of the Co-operative society and issued cheque for amount outstanding and said evidence should have been considered.
3. Learned counsel for respondent-accused submits that the trial court has considered that the account extract filed was not of account for which the cheque was issued. The trial court come to the conclusion that it was not proved that on 13-01-2008 amount of Rs.77,950/- was outstanding.

4. If amount was not outstanding, why respondent-accused issued cheque needs to be considered. The evidence needs to be re-appreciated.
5. Application is allowed.
6. Application be registered as an appeal.
7. The appeal is ***admitted.***
8. The paper-book be got prepared.
9. Action under section 390 of the Code of Criminal Procedure be taken against respondent-accused in trial court.

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

MTK