

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. 5502 OF 2014

BHIMASHANKAR S/O NANSAAHEB PATTARWALE
VERSUS
SHANKARS/O MALAPPA SONKE

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Advocate for Applicant : Mr. Sandip Swami Chakurkar,
Advocate h/f Mr. Gunale V. D.

CORAM: T. V. NALAWADE, J.
DATED: 5th August, 2015.

PER COURT:

1. The application is filed for grant of leave to file appeal against judgment and order of S.T.C.C. No.14704 of 2014 which was pending before learned J.M.F.C., Latur. Heard learned counsel for the original complainant, applicant. Seen the record.

2. The complainant had come with a case that there was a transaction of sale of tractor and equipment between the complainant and the accused, and towards

the price of the tractor and equipment the cheque of Rs.5.11 Lakh was given by the accused. This cheque bounced and the bank gave remarks as insufficient funds in the account of the accused.

3. The required procedure was followed by the complainant. The accused took the defence that the cheque book was missing and informed accordingly to the bank. Trial Court has acquitted the accused by considering those circumstance. It is a fact that the civil suit filed against the accused in respect of the same transaction is decreed in favour of the complainant. The trial Court has considered the circumstance that the officer of bank has given evidence that intimation was given by the accused to stop the payment of these cheques. In that case also it will have to be ascertained as to whether the case falls under section 138 of Negotiable Instruments Act. But that attempt was not made by learned J.M.F.C. This Court holds that there is good and arguable case to the complainant. So, the application is allowed. Leave granted.

4. Appeal is admitted.
5. Notice, after admission, returnable on 16th September, 2015.

[T. V. NALAWADE, J.]

Dt.05/08/2015
ans/5502