

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

CRIMINAL APPLICATION NO.5047 OF 2013

Shivraj s/o Manmathappa Mule ... APPLICANT

VERSUS

Tarakant s/o Shivdas Honrao & anr. ... RESPONDENTS

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Shri M.B. Kolpe, Advocate holding for
Shri U.L. Momale, Advocate for applicant
Shri M.S. Karad, Advocate holding for
Shri S.S. Thombre, Advocate for respondent No.1
Shri D.V. Tele, A.P.P. for respondent No.2/State
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CORAM: A.I.S. CHEEMA, J.

DATED: 9th February, 2015.

ORAL ORDER :

1. Heard learned counsel for applicant and learned counsel for respondent No.1 finally. Learned counsel for applicant submitted that, because of personal relations the applicant - original complainant had given hand loan of

Rs.1,50,000/- to the respondent No.1 - original accused. The respondent No.1 did not return the money and when demand was made, the respondent had issued cheque, which bounced. According to the learned counsel, the applicant had proved his case, but the trial Court wrongly concluded that the cheque was not issued for return of legally enforceable debt. Learned counsel has taken me through the reasonings recorded by the trial Court to submit that the judgment is not maintainable and leave should be granted.

2. Learned counsel for respondent No.1 - original accused submitted that the trial Court considered the evidence including the fact that the cheque was in different ink regarding signature vis-a-vis other contents. According to him, the reasonings recorded by the trial Court are correct.

3. Going through the matter, it can be seen that the trial Court has discussed the evidence regarding legally enforceable debt and interalia observed that the transaction was doubtful because more than Rs.20,000/- was advanced in cash and the observations are that the transaction was illegal. Looking to the observations of the trial Court, it does appear that the trial Court rightly considered that unaccounted money was

being transacted and thus, did not support the recovery of such debt.

4. Keeping in view judgment in the matter of Sanjay Mishra Vs. K.K. Reported in 2009 ALL MR (Cri.) 1080 and Vijaya Kundanlal Sharma Vs. Satyawar Bhikaji Jadhav & anr., reported in 2014 ALL MR (Cri.) 717, I do not find any reason to interfere with the judgment of the trial Court so as to entertain present application for granting leave against acquittal. The criminal application is rejected.

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