

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.5805 OF 2014

Navnath s/o Popatrao Manal,
Age-45 years, Occu:Agri. & Service,
R/o-R.M. 244, Sainagar, Bajajnagar,
M.I.D.C. Waluj, Tq. & Dist-Aurangabad.

...APPLICANT
(Orig. Complainant)

VERSUS

1) Sow Manish w/o Narayan Kute,
Age-Major, Occu:Household & Business,
R/o-Gurudakshina Complex-2,
Cidco, Waluj Mahanagar-1,
Post-M.I.D.C. Waluj,
Tq. & Dist-Aurangabad.
(Orig. Accused)

2) The State of Maharashtra

...RESPONDENTS

...
Mr. B.N. Patil Advocate for Applicants.
None present for Resp. No.1.
Mr. V.M. Kagne, A.P.P. for Respondent No.2.

...

CORAM: A.I.S. CHEEMA, J.

DATE : 26TH NOVEMBER, 2015

ORDER :

1. Heard counsel for the Applicant - original complainant. It is stated by the learned counsel for the Applicant that the Respondent-original accused got acquainted with the Applicant during the functions at Swami Samarth Mandir, Waluj. Respondent-accused was in need of money to purchase house and on request of the Respondent and her husband, the Applicant had advanced Rupees Ten Lakhs to the Respondent-accused. The Respondent issued two cheques of Rupees Five Lakhs each. The cheques, however, bounced when those were presented for encashment. Learned counsel submits that the trial Court wrongly concluded that the complainant does not have capacity to advance such amount. According to the learned counsel the reasonings recorded by the trial Court are not correct and hence leave needs to be granted.

2. The counsel for Respondent No.1 - accused called, absent.

3. I have gone through the material available on record. It is surprising to see that on mere acquaintance it is claimed that huge amount of Rupees Ten Lakhs was advanced without taking any security. The trial Court has discussed the evidence relating to filing of the criminal case by the Respondent-accused of theft of cheques. Trial Court has, after analyzing the evidence, concluded that the complainant failed to establish the fact of his capacity to advance such huge amount. Looking to the evidence, it must be said that such huge amount must be treated as unaccounted money. The case of the Applicant appears to be doubtful and the trial Court has considered that the capacity to advance such big amount is not established.

4. Going through the material, view taken by

the trial Court is possible view. No interference is called for in the acquittal recorded by the trial Court.

5. For the reasons stated above, Criminal Application is rejected.

[A.I.S. CHEEMA, J.]

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