

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

907. CRI.APPLN/5413/2013

YOGESHWAR NAGARI SAHAKARI PATSANSTHA MARYADIT, DHULE
V/S
SHRIKANT DATTATRAYA WANI

Mr. A.V. Patil h/f. Mr. N.B. Suryawanshi, Advocate for applicant.
Mr. R.S. Shinde, Advocate for respondent.

CORAM : T.V. NALAWADE, J.
DATED : 29th July, 2015.

ORDER :

1. The application is filed for grant of leave to file appeal under section 378 (4) of Cr.P.C. against the order of acquittal. The learned J.M.F.C., Dhule has acquitted the respondent in S.C.C. No. 2784/2006 which was filed by the present applicant, cooperative credit society for offense punishable under section 138 of Negotiable Instruments Act. The learned counsel for the original complainant is heard. Some hearing was also given to the learned counsel for the accused.

2. The applicant has produced the relevant record. This Court has gone through the reasoning given by the trial Court. Following reasons are given by the trial Court.

(i) Only copy of resolution passed in favour of the person, who was representing the society was

produced.

(ii) Copies of the alleged transactions were produced and original document of loan transaction were not produced.

(iii) There was some discrepancy with regard to the ink appearing on the cheque at different places and there is opinion of the expert that the age of the ink appearing on two places on cheque is different.

3. The accused has taken the defence that he had kept the cheque with the society in the past in respect of other transaction and they have misused. In view of the defence taken and the reasoning given, this Court holds that there is good arguable case for the original complainant.

4. In the result, the application is allowed. Leave is granted.

5. Appeal is **admitted**. Notice after admission is waived by learned counsel Shri. R.S. Shinde for respondent.

[T.V. NALAWADE, J.]

ssc/