

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. 5905 OF 2014

M/S GAUTAM MILK PVT LTD
VERSUS
SANJAY S/O BHIMRAJ PATIL

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Advocate for Applicant : Mr. Gaware Niteen V.
Advocate for Respondent: Mr. Thoke Dhananjay B

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

PER COURT:

1. The application is filed for grant of leave under section 378 (4) Cr.P.C. to file appeal against judgment and order passed by learned J.M.F.C., Kapargaon in STC No.214 of 2002. Learned J.M.F.C. has acquitted the Respondent in the case filed for offence punishable under section 138 of Negotiable Instruments Act. Both the sides are heard.

2. This Court has gone through the reasoning given by

the learned J.M.F.C. and the evidence on the record. The issuance of the cheque is not disputed. It is also not disputed by the accused that there were transactions between the complainant concern and the accused and he was selling the milk supplied to him by the complainant. In the cross examination it is suggested that every time he received the goods he had made the payment and he was having receipts in respect of payments made. Those receipts are not on the record. Learned J.M.F.C. has considered the circumstance that only certified copy issued by civil Court of the account extract which was produced in a civil suit was produced by the complainant concerned. There was also decree in respect of the same amount but there is no reference to the decree. The accused has not stepped in witness box and so the aforesaid circumstance can be considered against the accused. Thus, there is good and arguable case to the complainant. So, the application is allowed. Leave is granted.

3. Appeal is admitted.

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4. Notice, after admission. It is waived by learned counsel for the Respondent.

[T. V. NALAWADE, J.]

Dt.05/08/2015
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