

1. Heard learned counsel for the applicant and learned counsel for the respondent. The learned counsel for applicant-complainant is submitting that the complainant had given a hand loan on 17.9.2009 to the accused, of Rs.4 Lakhs to buy J.C.B. Machine. According to the counsel, the accused was maternal cousin brother of the complainant. The amount was given in

presence of one Parmeshwar Shinde and Dhananjay Bokil. Later, the accused issued cheque of Rs.4 Lakhs on 16.7.2012 in presence of Parmeshwar Shinde and Dhananjay Bokil, a jeweler. The cheque, when presented to the Bank, bounced and thus, the offence was committed. The learned counsel submitted that the complainant was supported by the evidence of the two witnesses, but the trial Court did not appreciate the evidence properly. Although the signature on the cheque was not denied by the accused, the trial Court did not raise the presumption available under the Negotiable Instruments Act and disbelieved the complainant and her witnesses.

2. The counsel for respondent submitted that, the accused had filed F.I.R. against Dagadu Mali, the husband of complainant and the complainant claiming that, they had forged the document and cheated him by using blank cheque. There were transactions between accused and husband of complainant and cheque with reference to those transactions was misused by the complainant.

3. Perusal of the concerned judgment shows that the trial Court considered the oral and documentary evidence that the complainant claimed that on 17.9.2009 she gave the accused

Rs.4 Lakhs in presence of Parmeshwar Shinde as well as Dhananjay Bokil and also claimed that on 16.7.2012 also when the accused allegedly gave the cheque of Rs.4 Lakhs, these two persons were present. In this context, the trial Court considered the evidence of the two witnesses and found discrepancies. The trial Court noted that witness Dhananjay claimed that on 17.7.2012 (and not on 16.7.2012 as claimed by the complainant), he had been to the complainant and accused had given the cheque in his presence. The trial Court noted that the other witness Parmeshwar Shinde was unable to give details of payment and handing over of the cheque. Even this witness claimed that only once he had gone to the house of complainant, which was on 17.7.2012. The trial Court thus found that there were various discrepancies. The trial Court considered the Bank statement of the accused, which shows that between 1.7.2012 to 12.7.2012, the husband of complainant namely Dagadu Mali was paid huge amount by the accused and it was also noticed that the accused had filed F.I.R. against Dagadu Mali and complaint regarding forgery of documents and cheating by using of blank cheque. The trial Court took view of the evidence and found that the offence was not proved beyond all reasonable doubts.

4. The view taken by the trial Court is possible view. There is no reason to interfere and the appreciation of evidence done by the trial Court appears to be proper. There is no substance in the criminal application for leave to appeal. Criminal Application is rejected.

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

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