

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****CRIMINAL APPLICATION NO.6353 OF 2013**

Jeevan Chandmal Dhadiwal,
Age-60 years, Occu:Medical Practitioner,
R/o-Saraf Bazar, Kopergaon,
Tq-Kopergaon, Dist-Ahmednagar.

...APPLICANT
(Orig. Complainant)

VERSUS

1) Sou. Jayshree Basantsinha Chauhan,
Age-51 years, Occu:Business,
R/o-Shivshai Pardeshi Guruji
Nagar Sahkari Pat Sanstha Maryadit,
Gokhurbaba Galli, Kopergaon,
Tq-Kopergaon, Dist-Ahmednagar,
(Orig. Accused)

2) The State of Maharashtra

...RESPONDENTS

...
Mr.Amol S. Gandhi Advocate for Applicant.
Mr.C.K. Shinde Advocate for Respondent No.1.
Mr.D.V. Tele, A.P.P. for Respondent No.2.
...

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

DATE : 3RD MARCH, 2015

ORAL ORDER :

1. Heard.

2. Counsel for Applicant - original Complainant makes request to call for Record and Proceedings, as in Para 12 of the Judgment the trial Court referred to Exhibit 27 vide which cheque was deposited in Bank and Exhibit 28, the memo of the Bank and discussed the photo copy Exhibit 38 which was front page of Exhibit 27. The counsel submits that he wants to see the documents and then argue the matter.

3. Learned counsel for Respondent No.1 submits that perusal of these documents will not make any difference as material question in such matters is, whether the cheque was deposited and it bounced. If reasons of trial Court in Para 13 of Judgment are seen, the objection on this count of Accused was discarded and found that Notice was issued in limitation.

4. Learned counsel for Respondent No.1 further submitted that the reason why the trial Court has acquitted the accused is, that the amount involved in this matter of Rupees One Lakh was found to be unaccounted money in the context of Judgment in the matter of **Sanjay Mishra vs. Kanishka Kapoor @ Nikki and another, 2009 Cri. L.J. 3777.**

5. At this stage of dictation, learned counsel for Applicant seeks time saying that he wants to bring reported Judgments in support of his contention that trial Court wrongly relied on the case of **Sanjay Mishra**. It is not appropriate that when matter is taken up for admission hearing, and the order is being dictated, in the midst the counsel should seek time that he wants to go and get certain Rulings.

6. Trial Court considered evidence of

Complainant vis-a-vis documents and found that in Income Tax Returns Exhibit 72 to 76 the amount was not disclosed in "Loans and Advances" and found the same to be unaccounted amount. It held that ratio in the matter of **Sanjay Mishra (supra)** applied and that it is not legally enforceable debt and acquitted accused. Looking to the reasons recorded by the trial Court, the view taken is possible view for acquittal. It does not appear that there are grounds to interfere. Leave is declined. The Criminal Application is rejected.

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

asb/MAR15