

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 140 OF 2015

IN

STAMP NUMBER MAIN NO. 2733 OF 2014

INDUSLND BANK LTD. REP. BY POA MR.
GANESH APA SHETGAONKAR.

... Applicant

Versus

MR. NILESH KAVLEKAR.

... Respondent

Mr. Pavithran A.V, Advocate for the Applicant.

Mr. Padgaonkar Chaitanya Prakash, Advocate for Respondent no. 1.

Coram:- C. V. BHADANG, J.

Date:- 15th July, 2015

P.C.:

Heard Shri Pavithran A. V., learned counsel for the applicant and
Shri Padgaonkar, the learned counsel for the respondent.

2. Perusal of the impugned judgment would show that except on
the issue of authority to file the compliant the Magistrate has found
all other ingredients of the offence under section 138 of the N.I. Act
proved against the respondent.

3. It is submitted on behalf of the applicant that the complaint was
filed under the signature of one Anant Suresh Kerkar, Branch
Incharge in whose favour there is a Power of Attorney executed by
one S. Nagarajan, Joint Managing Director of the applicant on

4/3/2006. When the matter reached the stage of evidence, Anant Kerkar had ceased to be in service. On behalf of the applicant, PW.1, Sanit Bhandodkar was examined, who had Power of Attorney in his favour executed by S. V. Parthasarathy, Executive Vice President of the applicant. It is submitted that in view of the administrative setup of a banking company, it cannot be expected that the person who is the signatory of the complaint would always be available at the time of hearing of the complaint. It is submitted that both these Powers of Attorney would sufficiently show that there was no defect in so far as the authority to lodge the complaint.

4. I find that an arguable case arises.

5. Leave to appeal against acquittal is granted. The application is accordingly allowed and disposed of.

6. The learned Magistrate to take action under section 390 of Cr.P.C.

C. V. BHADANG, J.

ap/-