

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION (ALP) No. 199 of 2015.

Raigad Sahakari Bank Ltd

..Applicant.

Vs

Santosh E. Raut & ors

..Respondents.

Mr S.C.Mangale, Advocate for the Applicant.

Mrs Anamika Malhotra, APP for the State.

Mr Santosh Eknath Raut – respondent in person.

CORAM : A.R.JOSHI,J

DATE : 24th July, 2015

PC. :

1) Heard learned advocate for the applicant/original complainant. Also heard respondent no.1 who is a proprietor of respondent no.3. Respondent No.1 appeared in person and stated that he do not want to engage any lawyer and he argued himself.

2) This is an application for leave to file appeal challenging the acquittal of respondent Nos. 1 and 2 in the matter of offence u/s 138 of N.I. Act. The trial Court was influenced by the defence of respondent no.1 that he had no transaction of any nature with the present applicant/original complainant and in fact he had given the subject cheque to present respondent no.2 original accused no.2. It is a factual position that present respondent no.1 did not enter into his defence so also original accused no.2 did not enter into any defence. The trial Court was influenced by the fact that the applicant has failed to establish any transaction between him and the present

respondent no.1, though apparently the transaction between the applicant and respondent accused no.2 was held as established.

3) There is a debatable issue in the present case as to legally enforceable liability on the present accused no.1 and it can be decided at the time of final adjudication of the appeal.

4) In the result, the present application for leave is allowed.

5) The appeal is admitted. Instead of issuing process u/s 390 of Cr.P.C. against the present respondent no.1, he is directed to appear before the trial Court on a fixed date. He shall be released on bail in the sum of Rs.500/- by the trial Court.

6) Process under section 390 of Cr.P.C. be issued against respondent No.2 with directions to the trial Court to release the respondent No.2 on bail in the sum of Rs.500/-. Call for R and P Appeal to be placed in due course of time.

7) Respondent No.1 to appear before the trial Court on 24th August, 2015 at 11.00 a.m.

8) Application for leave to appeal is disposed of accordingly.

(A.R.JOSHI, J.)