

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.213 OF 2013

Kamlesh C. Oza	..Applicant
<i>Versus</i>	
Suresh Ramji Ingle and another.	..Respondents

WITH
CRIMINAL APPLICATION [ALP] NO.214 OF 2013
WITH
CRIMINAL APPLICATION [ALP] NO.215 OF 2013
WITH
CRIMINAL APPLICATION [ALP] NO.216 OF 2013

....
Mr. P. Ranjan i/b. Halai & Co. for the Applicant.
Mr. A.R. Patil, APP, for the State.
....

CORAM : A. R. JOSHI, J.

DATE : 29th JULY, 2015

P.C.

1. Heard learned Counsel for the applicant in all the four matters. All these four applications are for leave to file appeal challenging the acquittal of respondent No.1 in the matter of offence punishable under Section 138 of Negotiable Instruments Act.
2. The respondent No.1 is already represented by one

Advocate Mr. Chetan Pawar. On the last date when the matter was before the Court and when none was present for respondent No.1, it was told to the learned Counsel for the applicant to inform the learned Advocate for respondent No.1 of next date i.e. today's date. Today the acknowledgment of Advocate Chetan Pawar on the notice sent to him by the Advocate for the applicant, is shown to the Court. In spite of this, none present for respondent No.1.

3. Heard learned Counsel for the applicant in all the matters. According to the case of the applicant / original complainant there was a loan transaction between him and the respondent No.1. He had given a total loan of Rs.6,70,000/- to respondent No.1. The loan agreement and promissory note was executed to that effect. The original documents were filed in one matter and in other matters xerox copies were filed. There were total 10 cheques given by respondent No.1 and all ten cheques got dishonored leading to lodging of nine complaints. Out of these nine complaints, present are the four matters in which the challenge is to the acquittal of respondent No.1. Apparently, there was conviction of respondent No.1 in three matters and

out of them in two matters the respondent No.1 had already undergone the sentence. In third matter, he filed an appeal which was allowed by the Sessions Court. The order of Sessions Court is challenged by the present applicant by filing an appeal along with application for leave. Said leave application is already admitted by this Court vide order dated 4.3.2011.

4. What weighed with the trial Court was non filing of the original agreement for loan and promissory note in all these four matters though it was made known to the Court that there was only one original for those two documents and that was filed in another proceeding. Secondly, the trial Court came to the conclusion that the applicant was not financially sound to give loan of Rs.6,70,000/- to the respondent. In any way, in the opinion of this Court there is a debatable issue to be dealt in detail in all the four matters and as such the present applications for leave to file appeal are allowed and accordingly disposed of.

5. Appeals are admitted.

6. Process under Section 390 of Cr.P.C. be issued against

the respondent No.1 in all the matters with directions to the trial Court to release the respondent No.1 on bail in the sum of Rs.500/- each. Call for R & P. Present four matters be taken along with earlier admitted Appeal No.251 of 2011.

(A. R. JOSHI, J.)

Deshmane (PS)