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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 295 OF 2015**

Varashree Narayan ... Applicant

Versus

State of Maharashtra and anr. ... Respondents

Applicant present person.

Ms G.P. Mulekar, A.P.P. for the State.

Mr. Niranjan Mundergi for respondent no. 2.

**CORAM : M.L. TAHALIYANI, J.
DATED : JULY 15, 2015**

P.C.

Admit. Heard finally.

2. Heard the applicant in person and the counsel for respondent no. 2 and the learned A.P.P. for the State.

3. The applicant challenges the order of the Magistrate refusing to amend the charge. In fact this revision application should have been filed before the Sessions Court. Initially this court was not inclined to hear the application. However, since the issue arising out of the same complaint was heard by this court and certain directions were issued to the Magistrate by this court, it was found just and proper to hear the revision application. The applicant is aggrieved by the order of the Magistrate refusing to frame additional charges for the offences punishable under section 420, 477A and

other charges in Criminal Case No. 2692/S/99.

4. Respondent no.2 is facing trial for the offence punishable under section 426 of Indian Penal Code in the said criminal case. The allegations against respondent no.2 are that he has caused damage to the garage of the applicant. The applicant claims that the damage was more than Rs.50/- and therefore, charge under section 427 of Indian Penal Code should have been framed. However, she is unable to show from the entire oral evidence that the alleged damage was more than Rs.50/-. Therefore, in my opinion, the contention that the charge under section 427 of Indian Penal Code should have been framed, has properly been rejected.

5. As far as criminal breach of trust is concerned, it is submitted by the applicant that respondent no. 2 has changed the user of the property of the society and has committed breach of trust in respect of the property kept in trust with him. In this regard, it may be noted here that the applicant is not a member of the society in question. She is an occupier of the garage within the premises of the society. She does not know any details of the society affairs. Despite of this, if she feels that there is change of user, she should report to the Planning Authority and the planning authority can take action against respondent no.2 for the offence punishable under section 52 of the M.R.T.P. Act.

6. The applicant also alleges offence punishable under section 420 of Indian Penal Code and wanted the charge to be amended. I do not find any ingredients in the entire evidence to prima facie hold that respondent no.2 had in any manner dishonestly and fraudulently induced the applicant to part with some property which amounted to cheating.

7. As far as falsification of accounts is concerned, some vague allegations are made and there is no specific allegation.
8. I do not find any substance in the application and the same is dismissed.

(JUDGE)