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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.1756 OF 2015

Kailas Nagri Co-operative Credit
Society Limited, Ahmednagar. ..APPLICANT

VERSUS

The State of Maharashtra & anr ..RESPONDENTS

Mr A.S. Gandhi, Advocate for applicant;
Mr R.V. Dasalkar, A.P.P. for respondent No.1

CORAM : N.W. SAMBRE, J.

DATE : 19th SEPTEMBER, 2016

ORDER :

Having heard Mr. Gandhi, learned Counsel for the original complainant, who has questioned the acquittal of the respondent-accused for an offence punishable under Section 138 of the Negotiable Instruments Act, it is noticed that learned Magistrate, while acquitting the accused, has made incorrect observation, particularly as regards the date of loan application. Learned Magistrate has considered that the loan was obtained in 2001, whereas perusal of the loan

(2)

application at Exhibit-33 depicts that the loan was applied in 2003 and extracts of loan, as such, were rightly placed on record w.e.f. 11th December, 2003. In view thereof, the evidence of the complainant that was discarded by learned Magistrate, in my opinion, *prima facie* needs to be re-appreciated. In view thereof, leave to file appeal is granted.

2. ***Admit.***

3. Learned A.P.P. waives service of notice for respondent No.1.

4. Action under Section 390 of the Code of Criminal Procedure to follow.

(N.W. SAMBRE, J.)

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