

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2387 OF 2015

Jamilabee w/o Lalkhan @ Nasirkhan
Age-65 years, Occu:Agril.,
R/o-Soygaon, Tq-Soygaon,
Dist-Aurangabad,
Presently R/o-Near Khandoba Mandir,
Satara, Tq. & Dist-Aurangabad.

...APPLICANT
(Orig. Complainant)

VERSUS

Sudhakar Gangadhar Udawant,
Age-45 years, Occu:Business,
R/o-Javeri Mension, Yardikar Towards,
Near Suparihanuman Mandir,
Gulmandi, Aurangabad.

...RESPONDENT
(Orig. Accused)

...
Mr. D.B. Shinde Advocate h/f. Mr. M.S. Deshmukh
Advocate for Applicant.
Mr.B.R. Warma Advocate for Respondent.

...

CORAM: A.I.S. CHEEMA, J.

DATE : 2ND MAY, 2016

ORAL ORDER :

1. Heard learned counsel for the Applicant
and learned counsel for Respondent-accused.

Perused record. Perusal of the impugned Judgment shows that the Court has calculated the period of six months in a matter of post dated cheque, from the date when it was actually written. This requires to be considered.

2. The learned counsel for the accused is submitting that trial Court dismissed the complaint also because the agreement of sale of property on the basis of which the cheque was issued, had provision that if the cheque bounced, the agreement would get cancelled and the vendor in fact did sell off the property to somebody else and the trial Court thus found that there was no debt liability. Learned counsel further says that there was a compromise recorded in the suit which was subsequently filed, cancelling the transaction. The question would still remain whether when the cheque was bounced and notice was issued if the amount was not paid, offence was complete or not. Looking to all these aspects,

there is arguable case.

3. As such leave is granted. The Application is allowed. Application be converted into Appeal.

4. Appeal is **Admitted**. Mr. Warma, learned counsel for Respondent waives notice after admission of the Appeal.

5. Action under Section 390 of Cr.P.C. be taken against Respondent-accused in the trial Court. While admitting the Respondent-accused to bail, trial Court shall add condition that Respondent-accused shall mark his presence in the trial Court every three months till disposal of the present Appeal. The trial Court shall send yearly report of compliance in January, regarding appearance of the Respondent-accused.

6. The Respondent-accused shall appear before the trial Court for compliance on

16th May 2016.

7. Printing dispensed with.

8. Paper Book be got prepared.

[A.I.S. CHEEMA, J.]

asb/MAY16