

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3632 OF 2014

Ganpati Yadavrao Mandve ..Applicant

Versus

Sunil Vithalrao Sonwane ..Respondent

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Mr.N.L.Jadhav, advocate for applicant

Mr.V.P.Latange, advocate for respondent - sole

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CORAM : M.T. JOSHI, J.

DATE : JANUARY 28, 2016

PER COURT :

Heard both sides.

2] Aggrieved by the acquittal of the respondent/accused from the offence punishable under Section 138 of the Negotiable Instruments Act, vide judgment and order dated 26th March, 2014 passed in S.C.C. No.558 of 2005 by the learned Joint Judicial Magistrate F.C., Patoda, the original complainant wants to prefer an appeal and therefore, present application for grant of leave to file appeal, is filed.

3] Upon hearing both sides, it is gathered that there is no contemporaneous document from the side of the applicant/complainant to show that he had given a hand loan of substantive amount of Rs.60,000/-. Further the document produced by the respondent/accused from his banker would show that on 8th October, 1998 he had issued an intimation to the bank that the cheque in question, had lost. The cheque, however, has reappeared on 16th March, 2005, which was dishonored.

4] The case of the respondent/accused was that the applicant/complainant was indulging into illegal money lending business and towards an advance of Rs.25,000/-, with a view to usurp extra interest, he has used the cheque in question.

5] Having considered the overall facts and that in the year 1998, the respondent had intimated the

bank regarding loss of the cheque, in my view, the learned Judicial Magistrate F.C. has taken a reasonable and probable view of the material on record.

6] In the circumstances, present application for grant of leave to file appeal, deserves to be rejected. The same is accordingly rejected. Leave refused.

[M.T. JOSHI, J.]

kbp