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

CRIMINAL APPLICATION NO. 3184 OF 2016

Samarth Nagari Sahakari
Patsanstha Mydt.

..APPLICANT

VERSUS

Sandip s/o Bhaginath Mate

..RESPONDENT

Mr V. M. Chate, Advocate for applicant;

CORAM : N.W. SAMBRE, J.

DATE : 22nd August, 2016

ORDER :

From the loan documents at Exhibit-29, it will be gathered that non-applicant obtained loan of Rs.90,000/- in 2008 from the complainant for running daily needs.

2. Towards security, non applicant gave cheque which was dishonoured.

3. The notice was sought to be served though dishonoured, however, same was returned as period

(2)

within which the respondent should have served was over, which prompted the applicant to re-tender the cheque and issue fresh notice.

4. Fresh notice was served on the respondent – accused and learned Magistrate noticed that since the cheque was presented twice and same was in discharge of liability of loan, which was obtained in 2009, for which recovery is time barred, dismissed the complaint.

5. Prima facie, it could be noticed that the first notice was sought to be served on the respondent on the address which he has furnished in the loan documents. Apart from above, even if the loan was discharged in 2009, same cannot be termed as time barred loan in 2012, particularly when the cause of action, qua recovery of the same shall start from period of three years from the date of expiry for the payment of last installment.

6. In my opinion, the Magistrate has prima

(3)

facie committed an error. In view thereof, leave granted.

7. **Admit**

(N.W. SAMBRE, J.)

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