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

CRIMINAL REVISION APPLICATION NO. 154 OF 2004

The Ausa Taluka Shikshak Pat
Sanstha Ltd. Ausa, through its
Chairman Shri. Hanmant s/o
Sambhajirao Ansarwade,
Age: 40 yars, Occ: Service,
R/o. Jawali, Tq. Ausa,
Dist. Latur.

..APPLICANT

VERSUS

1. The State of Maharashtra
Through the Secretary
Law & Judiciary Department,
Mantralaya, Mumbai.

2. Revansidh Nagappa Kalyani,
Age: 52 years, Occ: Business,
R/o. Ausa, Tq. Ausa,
Dist. Latur.

..RESPONDENTS

Mr S.S. Manale, Advocate for applicant;
Mr R.V. Dasalkar, A.P.P. for respondent No.1;
Mr M.L. Dharashive, Advocate for respondent No. 2

CORAM : N.W. SAMBRE, J.

DATE : 31st August, 2016

ORAL JUDGMENT :

On 6th November, 2003, the respondent-
accused was acquitted in Regular Criminal Case No.
72 of 1994 by learned Judicial Magistrate, First

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Class, AUSA, in which he was tried for an offence punishable under Section 409 of the Indian Penal Code, as it is claimed that he has caused mismanagement of amount of Rs.58,065-70 ps. In the capacity of Secretary between the period from 1991 to 1992.

2. There is one more case initiated against the present respondent-accused being Case No. CCL/132/94 in the Co-operative Court, Nanded for recovery of the said amount. The Judge, Co-operative Court has allowed the said dispute moved by the complainant vide judgment and order dated 31st December, 2001.

3. What could be noticed from the judgment of acquittal delivered by learned Magistrate is that though the above referred judgment delivered by Co-operative Court, which has direct bearing over criminal issue involved before it was not taken into consideration and dealt with.

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4. Leave apart, Mr. Dharashive, learned Counsel for respondent-accused, in the light of above, has given no objection for remand. In view thereof, in my opinion, criminal revision application needs to be allowed.

5. The order of acquittal dated 6th November, 2003 passed by learned Judicial Magistrate, First Class, Ausa in Regular Criminal Case No. 72 of 1994 is hereby quashed and set aside. The said application stood restored to the file of learned Judicial Magistrate, First Class, Ausa, who shall decide the same afresh after taking into account the effect of the judgment of the Co-operative Court cited sura in the back ground of law laid down by the Apex Court in the matter of **M/s. Karamchand Ganga Pershad and another vs Union of India and others** reported in **AIR 1971 SC 1244**. If required, the Magistrate shall give opportunity to adduce additional evidence, production of additional evidence, if any.

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6. As such, criminal revision application
stands allowed in above terms.

(N.W. SAMBRE, J.)

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