

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4105 OF 2015

Nandkishor s/o Babanrao Satpute,
Age-56 years, Occu:Business,
R/o-Main Road, Georai, Dist-Beed.

...APPLICANT
(Orig. Complainant)

VERSUS

1) Ashok s/o Bhagwanappa Kapse,
Age-62 years, Occu:Business,
R/o-Near Renukadevi Temple,
Main Road, Georai, Dist-Beed,

2) The State of Maharashtra,
Through its Police Station,
Georai, Tq-Georai, Dist-Beed.

...RESPONDENTS
(Resp. No.1 - Orig. Accused)

...
Mr.Hemraj P. Kshirsagar Advocate for Applicant.
Mr.Prasad B. Kadam Advocate h/f. Mr. S.J.
Salunke Advocate for Respondent No.1.
Mr.A.M. Phule, A.P.P. for Respondent No.2.

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

DATE : 2ND MAY, 2016

ORDER :

1. Heard learned counsel for the Applicant-

original complainant. It is stated that the Respondent No.1 – accused was working as employee with the complainant and because of it, they had good relations. The Respondent No.1 – accused was in need of money for the purpose of house and the complainant had given hand-loan of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand) on 26th August 2002, for which hand-loan receipt Exhibit 44 was executed. After some time the accused was in further need of money for the marriage of his daughter and he asked for Rs.1,40,000/- (Rupees One Lakh Forty Thousand). At that time on 5th August 2006 the accused executed a cheque of Rs.1,50,000/- and on 9th August 2006 he executed another cheque of Rs.1,40,000/-. Both the cheques were issued in presence of the witnesses but when presented in the Bank, bounced and thus the offence took place, for which complaint was filed.

2. According to the learned counsel for the complainant, the trial Court wrongly appreciated

the evidence and acquitted the accused. It is stated that the trial Court wrongly appreciated the evidence where it was mentioned that both the cheques were issued on the same date. The counsel submitted that the complainant tried to bring on record evidence of the witnesses before whom the cheques were issued and even affidavit of one of the witness was filed in the Court. According to the learned counsel, thereafter the accused threatened that witness that the accused would commit suicide and thus the witness could not come before the Court. Learned counsel submits that the trial Court wrongly ignored these facts and acquitted the accused. Thus, according to the learned counsel, the Judgment of acquittal needs to be interfered with.

3. Going through the material available, learned counsel is not able to show convincing reason why such big amounts were issued by the businessman to employee, for which no entries in

books of accounts were kept. The counsel submits that the amount was given from agricultural income. However, the counsel is unable to show that if there is agricultural income for such big amounts, the agriculturist would not be liable to keep any record or account for the same. The trial Court has considered that there was relationship of master and servant between the parties and considered the document Exhibit 44 regarding the manner in which it was written where part of the contents are squeezed and the last part is written in sparing lines. Trial Court thus, doubted the document and came to the conclusion that existence of legally enforceable debt was not established.

4. Looking to the facts of the matter and the reasons recorded by the trial Court, it is a possible view of the evidence. I do not think that grounds are made out to grant leave against the acquittal.

5. The Application is rejected.

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

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