

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

CRIMINAL APPLICATION NO. 2509 OF 2015

Shri. Yogeshwar Nagari Sahakari
Patsanstha Ltd. Dhule
Through its authorised person
Shri. Sandeep Vasant Baviskar,
Age: 26 years, Occ: Service,
R/o. 29, Reu Nagar,
Nakane Road, Deopure, Dhule. ...Applicant

versus

Ravindra Madhavrao Amrutkar,
Age: Major, Occ: Business,
R/o. 19, Yogeshprasad, Ashok Nagar,
Near L.I.C. colony, Dhule. ...Respondent

.....
Mr. Mukul S. Kulkarni, Advocate for applicant
Mr. P.M. Nagargoje, Advocate for respondent

.....
WITH
CRIMINAL APPLICATION NO. 4981 OF 2015

Shri. Yogeshwar Nagari Sahakari
Patsanstha Ltd. Dhule
Through its authorised person
Shri. Sandeep Vasant Baviskar,
Age: 26 years, Occ: Service,
R/o. 29, Reu Nagar,
Nakane Road, Deopure, Dhule. ...Applicant

versus

Sau. Sunanda Balkrishna Amrutkar,
Occ: Business,
R/o. 19, Ashok Nagar,
Near L.I.C. colony, Dhule & anr. ...Respondents

.....
Mr. Mukul S. Kulkarni, Advocate for applicant
Mr. P.M. Nagargoje, Advocate for respondent No.1
Mr. A.S. Shinde, A.P.P. for respondent No.2
.....

CORAM : N.W. SAMBRE, J.

DATE : 14th JUNE, 2016

ORAL ORDER :

Both the applications are preferred by the original complainant, a credit co-operative society questioning the acquittal granted to the non-applicant – accused under Section 138 of the Negotiable Instruments Act.

2. Leave is sought in the present case to file appeal on the ground that the acquittal in the present case is unwarranted.

3. Heard Mr. Kulkarni, learned Counsel for the applicant at length.

4. From the record, it depicts that there is presumption in favour of present applicant as holder of cheque under the provisions of Negotiable Instruments Act. The loan amount as has been advanced to the present non-applicant – accused, part thereof was diverted to some other customers of the bank, which is claimed to have been done at the behest of non-applicant – accused. There is hardly any material produced by the present applicant to discharge the burden so as to establish that diversion of amount from the loan

account as was disbursed to the non – applicant – accused was upon their instructions. In view thereof, presumption of admitted debt, in my opinion, is required to be overlooked in the present matter.

5. In my opinion, no case for grant of leave to appeal is made out. As such, leave to file appeal stands refused. Both the applications fail, stand rejected.

[N.W. SAMBRE, J.]