

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

CRIMINAL APPLICATION NO. 6417 OF 2015

Savita w/o Balaji Chambarge ...Applicant

versus

Gulab s/o Ramrao Kamble & anr. ...Respondents

.....

Mr. S. S. Panale, Advocate for applicant

Mr. E. S. Murge, Advocate for respondent No. 1

Mr. D.V. Tele, A.P.P. for respondent/State

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CORAM : N.W. SAMBRE, J.

DATE : 21st MARCH, 2016

ORAL ORDER :

In the body of the order of acquittal delivered by learned Magistrate while trying Summary Trial Case No. 642 of 2013, the Magistrate has recorded the findings that the complainant/cheque holder has failed to discharge burden/failed to prove hand loan given to the accused. Same findings are prima facie contrary to the provisions of Section 139 of the Negotiable Instruments Act which provides presumption in favour of cheque holder.

2. Learned Counsel for the complainant-applicant has rightly relied upon the law laid down by the Apex Court in the matter of **T. Vasantha Kumar vs. Vijaykumari** reported in **2015(8) SCC**

378. Hence, leave to appeal stands granted.

3. Appeal **Admit.**

4. Learned Counsel for respondent No. 1 waives service for him and learned A. P. P. waives service for State.

5. Action under Section 390 of Criminal Procedure Code to follow.

[**N.W. SAMBRE, J.]**