

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 83 OF 2016

IN

STAMP NUMBER MAIN NO. 1190 OF 2016

SHRI. AMEET N. RAUT.

... Applicant

Versus

SHRI. AJAY SHRIKANT MIRAJKAR AND
ANR.,

... Respondents

Mr. Jatin Ramaiya, Advocate for the applicant.

Mr. Rajneesh Naik, Advocate for the respondent no.1.

Coram:- C. V. BHADANG, J.

Date:- 2nd August, 2016

P.C.

Heard the learned Counsel for the parties.

2. This is an application for leave to appeal against acquittal. A Liquor shop was given on licence to the respondent no.1/ accused and according to the applicant/ complainant, the subject cheque was issued on 23/09/2013 for an amount of Rs.1,15,000/- which was outstanding.

3. A perusal of the judgment of the learned Magistrate shows that there was no inventory taken when the shop premises were handed back to the applicant and the applicant had admitted that there was no signature of the respondent no.1/ accused, where an amount of Rs.1,15,000/- is shown to be outstanding. Prima facie, it appears that there was one another case filed by the applicant against the respondent no.1 under Section 138 of N. I. Act and wherein the

subject cheque was in the sum of Rs.20,000/-, which was towards the electricity bills and that matter has been settled. The learned Counsel for the applicant has tendered a copy of the application which was filed by the respondent no.1 before the learned Magistrate, stating that he is willing to settle the matter and requesting the matter to be referred to Lok Adalat.

4. Be that as it may, prima facie, there is a copy of the cashbook wherein at the foot of the same, an amount of Rs.1,15,000/- is shown to be outstanding and this amount is arrived at after giving set off/ credit for Rs.80,850/- towards the amount paid by the respondent no.1 to the applicant. The contention is that the sanctity and the veracity of this cashbook has to be independently assessed and determined and merely because it does not bear the signature of the respondent no.1, it could not have been disbelieved.

5. On hearing the learned Counsel for the parties, I find that a case for grant of leave is made out. The application is, accordingly, allowed.

6. Office shall register the appeal and the same shall be treated as admitted. The learned Magistrate shall take action under Section 390 of Cr.P.C.

C. V. BHADANG, J.

SMA