

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 159 OF 2015

IN

STAMP NUMBER MAIN NO. 2021 OF 2015

VPK URBAN CO-OP. CREDIT SOCIETY
LTD., REPRESENTED BY ITS LEGAL
OFFICER MS.RATNA S. SAWANT
AMONKAR.

... Applicant

Versus

MR. SANDESH KHUSHALI GAUDE AND
ANR.,

... Respondents

Shri Devidas J. Pangam, Advocate for the Applicant.
Shri Anthony Joe D'silva, Advocate under legal aid scheme for
Respondent No.1.

Coram:- C. V. BHADANG, J.

Date:- 18th June, 2016

P.C.:

Heard learned Counsel for the parties.

2. The record shows that the issuance of the cheque is not disputed which will give rise to a presumption under Section 118 read with Section 139 of the Negotiable Instruments Act. The question is whether the presumption stands rebutted. The Magistrate has found that the witness PW1 has claimed that the cheque was issued towards the outstanding amount. However, the cheque amount was more than the amount due and, therefore, the cheque amount was not recoverable. Considering the circumstances, I find that a case for

grant of leave is made out.

3. In the result, the criminal application is allowed, granting leave to appeal against acquittal. The office shall register the appeal and the same shall be treated as admitted.

4. The learned Magistrate to take action under Section 390 of the Criminal Procedure Code.

C. V. BHADANG, J.

NH