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

905 CRIMINAL APPLICATION NO. 2407 OF 2016

**MANJUR PRAGAT SHETKARI VIVIDH KARYAKARI
SAHAKARI SANSTHA**

Versus

BABURAO KASHINATH KHARDE

.....

Mr. D.R. Menkar h/f Mr. N.K. Kakade , Advocate for Respondent.

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CORAM : A. M. DHAVALA, J.

DATED : 21.09.2017

ORDER :-

This is an Application filed by the Applicant-original complainant under Section 378 (4) of Criminal Procedure Code, for leave to appeal against judgment of acquittal in S.T.C. No. 671/2007, dated 11.1.2016 passed by the learned Judicial Magistrate, First Class, Kopergaon, Dist. Ahmednagar.

2. None present for the Applicant.

3. Heard learned counsel Mr. D.R. Menkar for the Respondent. The record and proceedings of the trial Court and judgment shows that there was transaction of loan, in which, the

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Respondent (member) has taken loan from the Applicant – original complainant Co-operative Society and the Cheque of Rs. 1,45,000/- dated 21.08.2007 was issued and dishonored. Despite service of notice, the Respondent did not make payment hence the complaint was filed.

4. The acquittal is based on a no due certificate and deletion of entry of loan from the 7/12 extract.

5. The Applicant-original complainant led evidence that the said letter was forged one and the complaint is filed about the same. The Talathi has stated that the said letter was produced by the Respondent-accused and he had not idea who had issued it. The Respondent-accused had not replied the notice. The complainant has produced the extract of account showing outstanding amount from the Respondent-accused. The accused has not led evidence to show that the loan was totally cleared.

6. Considering the facts that this is a fit case for admission, the Application is allowed. Leave granted. The Appeal

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is admitted. Issue notice to the Respondent. Issue letter to trial Judge for compliance of provision of Section 390 of Criminal Procedure Code, 1973.

[A. M. DHAVALE, J]

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