

IN THE HIGH COURT OF BOMBAY AT GOA**CRMA No.123/2017 in STM No.1186/2017.**

Mr. Everisto Sequeira

Appellant

Versus

Mrs. Shaik Hasina

Respondent

Mrs. A.Agni, Senior Advocate with Mr. Mujahadin
Sheikh, Advocate for the appellant.

Mr.Jatin Ramaiya, Advocate for the respondent.

CORAM : PRITHVIRAJ K.CHAVAN, J.
ORDER RESERVEDE ON : 14/08/2017
ORDER PRONOUNCED ON :16/08/2017.

ORDER:

1. The respondent has been acquitted of an offence punishable under Section 138 of the Negotiable Instruments Act by the learned JMFC, by judgment and order dated 3.3.2017, against which the applicant has sought a leave to appeal under Section 378 (4) of Code of Criminal Procedure.

2. Heard Mrs. Agni, learned Senior Counsel for the applicant.

3. The learned Senior Counsel drew my attention to a fact that the respondent had obtained hand-loan

from the applicant and had executed two promissory notes dated 18.4.2012 in the amount of Rs.Three lakhs. The respondent thereafter issued two cheques amounting to Rs.Three lakhs and another cheque of Rs. 1,30,000/-. My attention has also been drawn to the cross-examination of the applicant wherein there is no suggestion that signatures of the respondent were obtained by force or fraud. It appears from the impugned judgment, more particularly in paragraph 12 that, CFSL, Hyderabad received two promissory notes which were referred for examining the handwriting. The report of CFSL, Hyderabad revealed that the signatures on the questioned documents i.e. promissory notes at Ex.C-24 match with the signatures over the cheques. The learned Senior Counsel placed reliance on the case law reported in (2010)11 SCC 441 (Rangappa Vs. Sri Mohan).

4. On the other hand, Shri Ramayya, learned counsel for the respondent argues that there was no legally enforceable debt and, therefore, leave need not be granted.

5. After considering the impugned judgment and evidence on record, I am of the view that the evidence needs to be re-appreciated in view of the peculiar facts and circumstances and, therefore, leave to appeal needs to be granted. As such, leave to appeal under Section 378 (4) is granted.

PRITHVIRAJ K.CHAVAN, J.

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