

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.733 OF 2015

(Smt. Basantidevi A. Mundada Vs. Shri Premkumar Lakhmichand Jethani)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri J.B. Kasat, Advocate for Applicant.
None for Respondent.

CORAM: ROHIT B. DEO, J.

DATE: 29th AUGUST, 2017.

Heard Shri J.B. Kasat, the learned counsel for the applicant. None appears for the respondent though served.

The learned Magistrate has held that the complainant has not proved that she had the necessary means to advance the loan. The complainant is an agriculturist. *Prima facie*, Shri Kasat is right in contending that the learned Magistrate has resorted to surmises and conjectures.

The finding record by the learned Magistrate which is to the effect that the complainant appears to be a money lender, also needs a re-look.

More importantly, the learned Magistrate has not really appreciated the import and implication of section 118 (a) and 139 of the Negotiable Instruments Act, 1881.

Application is allowed.

Leave to challenge the judgment impugned is granted.

Appeal be registered. **Admit.**

List for final hearing.

JUDGE

NSN