

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL MISC. APPLICATION NO. 233 OF 2017****IN****STAMP NUMBER MAIN NO. 3009 OF 2017**

The Quepem Urban Co-op. Credit
Society Ltd.,

... Applicant

Versus

Shri Nilkhant Babu Velip & Anr.

... Respondents

Shri Abhay Nachinolkar, Advocate for the Applicant.

Shri Ashwin D. Bhobe with Ms. Shradha Bhobe, Advocates for
the Respondent No. 1.

CORAM:- C.V. BHADANG, J.

DATE:- 15th MARCH 2018

P.C.

This is an application for leave to appeal against acquittal.

2. The learned Magistrate had convicted the respondent for the offence punishable, under Section 138 of the Negotiable Instruments Act, which order has been set aside by the learned Sessions Judge in appeal on two grounds. Firstly, it has been held that the Magistrate had no territorial jurisdiction. While holding so, the learned Sessions Judge has relied upon the decision in the case of **M/s Harman Electronics (P) Ltd. & Another Vs. M/s National Panasonic India Limited, 2009 All MR (Cri) 280**. Secondly, it has been

held that the person who had filed the complaint had no authority to do so.

3. Insofar as the first ground is concerned, the learned Counsel for the applicant has relied upon the amendment to the Negotiable Instruments Act by ordinance 6 of 2015 w.e.f. 15.06.2015, which has not been noticed by the learned Sessions Judge. Even insofar as the second ground is concerned, I have perused the reasoning articulated by the learned Sessions Judge in para 29 of the judgment, in which the learned Sessions Judge has held that the “powers to proceed with” will not mean “powers to file or institute”.

4. Considering the circumstances and the submissions made, I do find that a case for leave to appeal against acquittal is made out. The criminal miscellaneous application is allowed. Let the Criminal Appeal be registered, which shall be treated as Admitted. The learned Counsel for the respondent no. 1, waives service. The learned Magistrate to take action under Section 390 of Cr.P.C. To be heard along with Criminal Appeal No. 11/2015.

C.V. BHADANG, J.

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