

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.105 OF 2016

**DHARMVEER SAMBHAJI SAHAKARI)
PATANSHTA MARYADIT, SATARA)
Through Administrator)
DATTATRAY ANANDRAO BORATE)...APPLICANT**

V/s.

**SOMESHWAR DYANESHWAR DHONE)
AND ANOTHER)...RESPONDENTS**

Mr.V.A.Shastry I/b. Mr.M.S.Athalve, Advocate for the Applicant.

Mrs.M.R.Tidke, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 24th SEPTEMBER 2018

P.C. :

1 Despite service, respondent/original accused is absent.

2 Heard the learned counsel appearing for the
applicant/original complainant. He tenders across the bar a
document which was marked Exhibit 52 by the learned trial court
and argued that finding given by the learned trial court in

paragraph 13 of its judgment to the effect that record of the applicant does not show that an amount of Rs.2.56 lakh were not legally recoverable is per se incorrect. Prima facie, it appears that the applicant Co-operative Credit Society has maintained the account which was reflecting that at the relevant time, the respondent/accused was to pay an amount of Rs.2.56 lakh to the applicant towards refund of the loan. In this view of the matter, the following order :

ORDER

- i) Leave as prayed is granted.
- ii) Memo of Application for leave to appeal be treated as Memo of Appeal on effecting necessary amendments thereto.
- iii) Leave to amend is granted.
- iv) Admit.
- v) Issue notice to respondents.
- vi) The learned APP waives notice for respondent no.2/State.
- vii) Call for Record and Proceedings.
- viii) In the meanwhile, action under Section 390 of the Code of Criminal Procedure before the learned trial court.

(A. M. BADAR, J.)