Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.240 OF 2015
Devendra A. Soni vs. Mrs. Jyoti B. Bagrecha and ors.
WITH
CRIMINAL APPLICATION NO.241 OF 2015
Bhavarlal M. Bagarecha and ors.
Devendra A. Soni vs. Mr. Bhavarlal M. Bagrecha and ors.

Office Notes, Office Memorandam of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr.M.N.Jain i/by S.M.Jain & Associates for the Applicant.
Mr. V.V. Gangurde, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.
DATE : 26th February, 2018

P.C.

1) These are applications under Section 378(4) of the Code of Criminal Procedure for leave to file appeals against the acquittal of respective respondents. The respondent No.1 in Criminal Application No.240 of 2015 was an accused in Summary Case No.1423 of 2009 and the respondent No.1 in Criminal Application No.241 of 2015 was an accused in Summary Case No.1422 of 2009 filed under Section 138 of the Negotiable Instruments Act by the

applicant. The learned Judicial Magistrate First Class, 6th Court, Kalyan, District Thane by the impugned order dated 2.3.2015 was pleased to dismiss the said complaints. The said orders are impugned herein.

2) Perused the record.

It clearly appears from the record that the applicant has failed to prove the basic fact that the alleged amount claimed by the applicant for which it is alleged that the respondents had given cheques for security was lawful liability of the respondents under the law. The record indicates that the ledger maintained by the applicant in Criminal Application No.240/2015 mentions an amount of Rs.7500/-was outstanding against the respondent therein however the in the complainant the applicant has claimed Rs.75,000/- from the respondent therein. In Application No.241/2015 though the lodger maintained by the applicant mentions figure of Rs.11,000/- as outstanding amount against the respondent therein however in his complaint before the Trial Court he has claimed Rs.1,10,000/- towards the lawful liability.

3) The record clearly indicates that there is no justification from the applicant at all as to why he claimed such huge amount with increase of 10% more amount from the respondent in his complaint.

4) The view adopted by the Trial Court is a probable view taken in the facts and circumstances of the present case. After perusing the record, this Court is of the opinion that the Trial Court has not committed any error either in law on facts. No case for grant of leave is made out.

5) Both the applications are accordingly rejected.

(A.S.GADKARI, J.)