

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.210 OF 2016

(For Leave to Appeal – Private)

Ganesh Babusingh Rathod ... **Applicant**

V/s.

The State of Maharashtra & Anr. ... Respondents

• • • • •

Mr.Jitendra H. Oak, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent/State.

None for the Respondent No.2.

• • • •

CORAM : A.M.BADAR J.

DATED : 29th JUNE 2018.

P.C. :

1 None for the respondent No.2

2 Heard the learned Advocate appearing for the
applicant/original complainant.

3 The learned trial Court came to the conclusion that the
fact that the complainant had paid amount of Rs.40200/- to the
accused is proved. However, the complaint came to be dismissed

on the ground that legally enforceable debt is not proved in sense that the applicant has not proved the fact that he lent an amount of Rs.62,500/- to the accused. The subject cheque was only for Rs.40,000/-.

4 In this view of the matter, case for grant of leave is made out. Therefore, the 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 amendment. Leave to amend is granted.
- (iii) Admit.
- (iv) Call for Record and Proceedings.
- (v) In the meanwhile action under Section 390 of the Criminal Procedure Code before the learned trial Court.

(A.M.BADAR J.)