

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.379 OF 2013

Soham Nagari Sahakari Patsanstha Maryadit

through its Authorised Officer

Shri.Aadesh Babasaheb Thorat

... **Applicant**

V/s.

Darshana Navinkumar Shah and anr.

... **Respondents**

Mr.Abhijit P. Kulkarni for the applicant.

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

CORAM : A.M.BADAR J.

DATED : 2nd JULY 2018.

P.C. :

1. None appeared for respondent no.1/original accused.
2. Heard. Perused the impugned judgment and order of acquittal also perused the documents effecting advancement of loan. It is seen that loan of Rs.45,000/- was sanctioned in favour of the respondent/accused and as per by-laws of the applicants/society 10% of that amount came to be deducted as deposit. That is how actual amount of Rs.40500/- came to be advanced to the respondent/accused. Despite this documentary evidence, the learned Trial Court *prima facie*

erred in concluding that evidence of the complainant to the effect that an amount of Rs.45,000/- was advanced as a loan, is doubtful. Consequently, it is further held that subsequent calculation are wrong and illegal. The documentary evidence prima facie shows that loan advanced was Rs.45,000/-. Hence, the order;

:: ORDER ::

- (i) Leave as prayed is granted.
- (ii) Memo of application for leave to appeal be considered as memo of appeal on effecting necessary amendment.
- (iii) Leave to amend is granted.
- (iv) Admit.
- (v) Issue notice to the respondents.
- (vi) The learned APP waives notice for respondent no.2/State.
- (vii) In the meanwhile, action under Section 390 of the Cr.P.C before the learned Trial Court.

(A.M.BADAR J.)