

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.349 OF 2016
(For Leave to Appeal – Private)**

Suresh Kumar Agarwal ... **Applicant**

V/s.

Mahendra P. Suwal & Anr. ... **Respondents**

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Mr.Amit P. Ghag with Mr. Kalpesh Joshi with Ms.Nisha Shah,
Advocate for the Applicant.

Mr.Sandeep Velkar with Mr.Prasad L. Gajbhiye with Mr.Nagarjun
L. Gajbhiye, Advocate for the Respondent No.1.

Ms.Anamika Malhotra, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 11th JULY 2018.

P.C. :

1 Heard both sides.

2 Cross-examination of the complainant itself shows that the accused demanded loan of Rs.Ten Lacs, but he provided loan of Rs.Five Lacs to the accused. It is also elicited from the cross-examination that the accused is friend of the complainant. On this backdrop, though the learned trial Court has found defence of the

accused improbable, presumption was not drawn in favour of the complainant and ultimately, the complaint came to be dismissed.

3 In this view of the matter, case for grant of leave is made out. Hence, the Order :

ORDER

- (i) Leave, as prayed, is granted.
- (ii) The application for grant of leave be considered as Memo of Appeal on effecting necessary amendment thereto. Leave to amend for this purpose is granted.
- (iii) Admit.
- (iv) Issue notice to respondents.
- (v) Mr.Velkar, the learned Advocate waives notice for the respondent No.1. The learned Additional Public Prosecutor waives notice for the respondent No.2/State.
- (vi) Call for Record and Proceedings.
- (vii) In lieu of action under Section 390 of the Criminal Procedure Code, the applicant to execute P. R. Bond in the sum of Rs.15,000/- before the learned trial Court within a period of one month.

Raju
Dattatraya
Gaikwad

Digitally signed
by Raju
Dattatraya
Gaikwad
Date:
2018.07.11
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(A.M.BADAR J.)