

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.363 OF 2016

**TULJABHAVANI GRAMIN BIGARSHETI)
CO-OPERATIVE PATASANSTHA MARYADIT)...APPLICANT**

V/s.

GANPAT POPAT WAGHCHAURE AND ANR.)...RESPONDENTS

Mr.Rahul Motkari, 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 None for respondent no.1/original accused, despite service.

2 Heard the learned counsel appearing for the applicant. He drew my attention to the Demand Promissory Note Exhibit 22 executed by the respondent no.1/original accused and argued that this documentary evidence is lost sight of by the learned trial

court and the learned trial court erred in holding that no document has been produced by the complainant to show that the accused had taken responsibility of repayment of the loan taken by his brother Sampat.

3 Prima facie, it is seen that Demand Promissory Note Exhibit 22 is lost sight of by the learned trial court while deciding the issue regarding legally recoverable debt. Case for consideration is, therefore, made out :

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.

Arti
Vilas
Khatate

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by Arti Vilas
Khatate
Date: 2018.09.24
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(A. M. BADAR, J.)