

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.397 OF 2016

Rohidas Dnyandeo Satpute ... **Applicant**

V/s.

The State of Maharashtra & anr. ... **Respondents**

Mr.Induprakash Tripathy a/w. Ms.Bhagyashri Gavas I/b.

Mr.Chandraprakash Kewlaprasad Tripathi for the applicant.

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

None for respondent no.2.

CORAM : A.M.BADAR J.

DATED : 24th AUGUST 2018.

P.C. :

1. None for respondent no.2/original accused.
2. Heard the learned Advocate appearing for the applicant/original accused.
3. Perused the material placed on record including the impugned Judgment and Order of acquittal. The leaned Trial

Court gave a finding that the amount due and payable by the respondent/accused comes to Rs.12,60,048/-. It is further held by the learned Trial Court that the defence is not proved satisfactorily by the accused. Issuance of cheque of Rs.11,50,000/- by the respondent/accused is also not in dispute. However, the learned Trial Court dismissed the complaint by holding that the part of the amount which was paid in between 5/3/2007 to 22/03/2010 cannot be recovered as the same amount was time barred debt. That is how the respondent / accused came to be acquitted. In fact, the cheque was given for repayment of the loan taken. In this view of the matter, case for consideration is made out. Therefore the order;

:: ORDER ::

- (i) Leave as prayed is granted.
- (ii) Memo of appeal for leave to appeal be treated as memo of appeal on effecting suitable amendment thereto.
- (iii) Leave to amend to that effect is granted.
- (iv) Admit.

- (v) Issue notice to respondents.
- (vi) The learned Additional Public Prosecutor waives notice for the respondent / State.
- (vii) Call for Record and Proceedings.
- (viii) In the meanwhile, action under Section 390 of the Criminal Procedure Code before the learned Trial Court.

Vina
Arvind
Khadpe

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Vina Arvind
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(A.M.BADAR J.)