

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 370 OF 2018
IN
STAMP NUMBER MAIN NO. 2803 OF 2018

THE SHIRODA URBAN CO-OPERATIVE
CREDIT SOCIETY LTD., THR. ITS
AUTH. OFFICER, BALA CHARI., ... Applicant

Versus

NILU B. VELIP., ... Respondent

Mr. Raviraj R. Chodankar, Advocate for the Applicant.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 2nd July 2019

P.C.:

Respondents though duly served twice, did not appear.

2. Heard Mr.Chodankar, learned Counsel for the applicant.

3. My attention is drawn by the learned Counsel to the fact that an amount of Rs.4 lakhs was sanctioned to the respondent as loan for some business. The respondent failed to repay the loan amount. However, the respondent issued cheque in favour of the applicant for an amount of Rs.6 lakhs drawn on the Goa State Co-operative Bank Ltd. dated 27.03.2012. However, it was returned with an endorsement that there was insufficient funds in

the account of the respondent.

4. A recall notice dated 14.03.2012 came to be issued to the respondent thereby demanding the loan amount. The applicant had also issued a demand notice dated 20.04.2012 by registered post with acknowledgement due. The said notice appears to have been duly received by the respondent on 24.04.2012 which is evident from the acknowledgement receipt which bears not only the seal of the postal department but also the signature of the respondent.

5. The observations made by the learned Magistrate in para 30 of the impugned judgment, prima facie, appear to be contrary to what have been tendered on record. The impugned judgment therefore needs consideration in the appeal. Therefore, special leave is granted to the applicant in order to challenge the impugned judgment and order. As such, the application stands disposed of.

6. The appeal be registered. After registering the appeal, it shall be admitted.

7. Issue notice to the respondents returnable on 22.07.2019. Humdast is permitted.

8. Learned Magistrate to take action as per Section 390 Cr.P.C.

PRITHVIRAJ K. CHAVAN, J.

MF/-