

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 72 OF 2019
IN
STAMP NUMBER MAIN NO. 3993 OF 2018

ARUN NAIK ... Applicant
Versus
URMILA BABAL NAIK AND ANR. ... Respondents

Shri Ashwin D. Bhobe, Advocate for the applicant.

Shri P. Lotlikar, Advocate for the respondent No.1.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 15th March 2019

P.C.:

It was the contention of Shri A.D. Bhobe, learned Advocate that there were erroneous findings by the learned Additional Sessions Judge while recording at paragraphs 15 and 16 that it was not a case of dishonour of the cheque and there was a presumption that the complainant was paid the amount due in cash. In his submission, these findings of the learned Additional Sessions Judge are completely beyond the records and when there was a clear finding at paragraph 12 that the Agreement in question conclusively proved that the husband of the accused had taken an amount of ₹4,00,000/- from the complainant and she was also a party to the said Agreement alongwith her husband.

2. This aspect requires serious consideration and in view thereof considering also the fact that the applicant was secured by an order of conviction by the learned J.M.F.C., leave is granted to prefer the appeal. In view thereof, the Registry to register the appeal. All contentions of the respondent are kept open to be canvassed on the merits of the appeal. The respondent is directed to comply in terms of Section 390 Cr.P.C.

3. Shri P. Lotlikar, learned Advocate waives notice on behalf of the respondent.

4. The application stands disposed off accordingly.

NUTAN D. SARDESSAI, J.

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