

BDP-SPS

Bharat
D. Pandit
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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 449 OF 2019**

Anita Ganesh Borkar

..... Applicant.
(Original Complainant)

V/s

Digambar Jagannath Jadhav

..... Respondent.
(Original Accused)

Mr. Suhas S. Deokar for the Applicant.
Mr. Vilas B. Tapkir for Respondent No.1.
Mr. S.V. Gavand, APP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: NOVEMBER 14, 2019

P.C.:-

1] Heard.

2] It is the case of the Applicant that for parting share in the ancestral property, Agreement Exhibit-23 was executed wherein it was agreed to pay Rs 40 lakhs to the Applicant. The cheque issued, came to be dishonoured. As such, prosecution came to be initiated under the Negotiable Instruments Act.

3] The submissions are, claim in the suit based on relationship, as

such the entitlement for share is admitted by the accused. The accused has transferred the share of the complainant to third party and as such, there is presumption in favour of the Applicant, as she is holder of cheque in due course for legally enforceable liability.

4] The learned Magistrate has considered the terms of Exhibit-23 an understanding/agreement entered into between the parties. Terms of the agreement provide for consequences in case if amount of Rs 40 lakhs, as agreed, is not paid. Suit for partition is still pending at the behest of the Applicant. That being so, order of acquittal appears to be just and proper. Hence, leave stands refused.

(NITIN W. SAMBRE, J.)