

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.518 OF 2019
(Leave to Appeal)**

M/s IDBI Bank Limited Applicant
thru' its authorised signatory
Smt. Pooja Mehra

Vs.

M/s IOL Netcom Ltd. & Ors. Respondents

Ms. Gayatri Gokhale i/by Ms. Nasima Theba for the Applicant.
Mr. A.A. Palkar, APP for the State.

Coram : NITIN W. SAMBRE, J.

Date : 9th December 2019

P.C.:

1. In CC No. 2304070/SS/2011, the respondent-accused came to be acquitted for an offence punishable under Section 138 of Negotiable Instruments Act by judgment dated 3rd January, 2018.

2. The submissions of learned counsel for the applicant are the acquittal is not justified for the reason the officer who has initiated the proceedings was very much authorised under the authorisation letter dated 23rd December, 2013, which is based on the revised

delegation of power ordered by the applicant on 15th March, 2010. According to her, even if there is no absolute delegation, the fact remains that its a curable defect, in view of law laid down by the Hon'ble Supreme Court and as such an opportunity ought to have been given to cure the same. The claim is, once the complaint is shown to be competent under Section 142 of Negotiable Instruments Act, the learned Magistrate ought not to have ordered the acquittal.

3. The aforesaid submissions are appreciated in the light of the judgment of acquittal and the documents which are produced on record through the compilation.

4. The applicant-Bank on 15th March, 2010 has revised its delegation of power in the meeting held on 27th February, 2010, wherein it is provided that the officer's putting up notes for approval should be specific about the relevant delegation of power clause. It further clarifies that these delegations has to be specifically mentioned as the reporting of the same to the next higher authority for the purpose of Control Report System.

5. The aforesaid documents will be of hardly any assistance to the applicant particularly when same does not in express terms authorised the General Manager of the applicant-Bank to delegate powers to initiate the proceedings in the present case to the Manager, Mr. Tajane.

6. Though learned counsel for the applicant was justified in making the submissions that the defect was curable one, however the fact remains that no step has been taken to cure the aforesaid defect, which has resulted into acquittal of the accused. Once it was noticed by the Magistrate that the complaint was initiated by the unauthorised person. The view of acquittal expressed by the Magistrate is just and proper. No interference is called for. Leave refused.

(NITIN W. SAMBRE, J.)