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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 584 OF 2018**

Mrs. Gayatri Rangaswami Yadav

.....Applicant

V/s.

State of Maharashtra and another

.....Respondents

Mr. Mihal Munoth Advocate for applicant a/w Adv. Ali B. for the applicant

Mr. Umesh s. Iyer for respondent no. 2

Mr. A. R. Kapadnis APP for the State

CORAM : NTIN W. SAMBRE, J.**DATE : NOVEMBER 29, 2019.****P.C.**

On last occasion so also today on second call, none appeared for the applicant. As such, this Court sought assistance of Advocate Shri. Mihal Munoth.

2 After going through record, he has assisted this Court on the merits of the matter.

3 Defence of respondent-accused in a prosecution under Section 138 of the Negotiable Instruments Act is that of issuance of cheque towards the hand loan.

4 Once the issuance of cheque is admitted, burden shifts on the accused in view of presumption under Section 139 & 118 of Negotiable Instruments Act on the accused to prove that cheques were not issued for legally admissible debt.

5 Said onus is not discharged by the accused. Rather, the learned Magistrate has observed that it is complainant/applicant who has failed to *prima facie* establish that the cheques were issued/received towards loan transaction.

6 In view of above, leave is granted.

7 **Admit.**

8 Learned APP waives service. Call for record and proceedings.

9 Action under Section 390 of Code of Criminal Procedure, 1973
be taken against respondent no. 2. She be admitted to bail on same
terms and conditions on which she was ordered to be released on
bail by the Court below.

[NITIN W. SAMBRE, J.]