

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application No. 186 of 2019

Dhanraj Runjaji Wakpanjar
..Vs..

Dhanraj s/o Kisanrao Gawai

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*Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.*

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Court's or Judge's Orders

Shri Anzar Baig Mirza, Advocate for the Applicant.

CORAM : S.M. MODAK, J.
DATE : 11th DECEMBER, 2019.

The complainant and accused were having financial transactions. Complainant used to give hand loan to the accused, it was given on more than one occasion. The cheque in question dated 17th December, 2014 for Rs. 35,000/- was issued towards the repayment of the loan of Rs. 50,000/- advanced somewhere in the month of October, 2014 out of that Rs. 15,000/- was paid in cash and for remaining amount of Rs. 35,000/- cheque in question was issued. The case pertains to dishonour of this cheque.

After evidence, the learned Magistrate has concluded that the complainant could not prove the liability. The reason was accused deposited Rs. 20,000/- and Rs. 15,000/- in his own account. The learned Magistrate has considered these two deposits towards the repayment of remaining amount of Rs. 35,000/-. Whereas, the complainant says that those two deposits were for different transactions.

The learned Advocate for the complainant invited my attention to the relevant dates. The money was advanced somewhere in October, 2014. The amount was deposited on 18th November, 2014 and on 19th November, 2014 whereas the cheque in question was issued on 17th December, 2014. According to him, the accused might not have issued the cheque, if there is no liability.

The learned Magistrate has simply given importance to two deposits in the bank account. Admittedly, they are prior to issuance of the cheque. So, there is need to have re-look to the evidence. The leave needs to be granted and appeal needs to be admitted. Hence the following order:-

O R D E R

- i. The leave is granted to prefer an appeal.
- ii. The application is disposed of.

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- i. The appeal is admitted.
- ii. Call record and proceedings.
- iii. Action under Section 390 of the Code of Criminal Procedure be taken.
- iv. The appellant is at liberty to file copies of depositions and documents instead of paper-book.
List the matter in due course.

JUDGE