

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

CRIMINAL APPLICATION (APPA) 223 OF 2017

(Ashok s/o. Puranlalji Jaiswal..vs.. Mohan Harishchandra Lokhande (Jangam))

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri S.S. Jaiswal, counsel for applicant.
Shri S.K. Damle, counsel for respondent.

CORAM: ROHIT B. DEO, J.

DATE: 18th JUNE, 2019.

Heard.

2 The defence of the accused is that the loan transaction was not between the complainant and the accused, but was between the brother of the complainant and the accused.

3 The signature on the cheque is not in dispute. The legal notice issued by the complainant has gone unheeded. The accused admits that he did not lodge any complaint as regards the alleged misuse of the cheque by the complainant. The trial Court rightly holds that presumption is activated. However, having so held, the trial Court emphasizes on the failure of the complainant to produce the bank record. Considering the evidence on record, in order to ascertain whether the statutory presumption is rebutted, it would be appropriate to have a second look on the material on record.

4 Leave to appeal is granted, the appeal be registered.

- 5 Admit.
- 6 Call for R & P.
- 7 Shri S.K. Damle, the learned counsel for the
respondent waives service.

JUDGE

rsb