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

CRIMINAL REVISION NO.179 OF 2017
(Vasantrao Khanobaji Dewalkar .vs. Navodaya Urban Credit Co-operative Society, Wani)

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

Mr.A.A.Dhawas, Advocate for the applicant.
Mr.A.K.Bangadkar, Advocate for respondent.

CORAM : N. W. SAMBRE, J.

DATE : 1.10.2019.

Heard.

The applicants are legal heirs of deceased Vasantrao Dewalkar, who was convicted by the learned Magistrate in Summary Criminal Complaint Case No.683 of 2007 for the offence punishable under Section 138 of the Negotiable Instruments Act vide Judgment and Order dt.15.11.2011 to suffer one month's simple imprisonment and to pay a fine of Rs.1,25,000/-.

The said accused, after conviction, preferred Criminal Appeal No.30 of 2011 pursuant to provisions of Section 374 of the Code of Criminal Procedure. The appeal came to be dismissed on 23.10.2017. As such, this revision.

Since the accused/appellant expired, the legal representatives are substituted, who intend to pursue the matter.

Learned Counsel for the appellant submits that conviction by Magistrate and confirmation in appeal is without considering the evidence on record. He submits that, in revision, this Court is required to re-appreciate the entire evidence as the same is against Judgment of conviction. Learned Counsel harped upon the criminal intention and also the circumstances in which cheque in question came to be issued. As such, he submits that conviction is liable to be set aside.

Learned Counsel for the respondent/Original Complainant submits that conviction is based on appreciation of oral and documentary evidence,. He would submit that admission given by accused persons is found to be basis for confirming admitted liability and that being so, conviction is liable to be maintained.

Considered the rival submissions. Service of statutory notice on the deceased/accused, acknowledgment thereto are very much proved. Exh. Nos. 36 and 37 are the receipts executed by the deceased accused towards availing loan facility and receipt of loan amount.

Exh.38 is further interpreted to the detriment of all the accused persons as the said document is admitted by the applicant to have been issued acknowledging the liability.

In the aforesaid background, defence putforth by the accused that the cheque was issued towards security was not established. The Court below considered the loan application, agreement of loan and cheque (Exh.39) and inferred that the deceased accused was guilty of offence in question.

The Appellate Court re-appreciated the entire evidence. Learned Sessions Judge while dismissing the appeal has referred to aforesaid documents from Exh. Nos.36 to 45 and proceeded to confirm conviction of deceased accused. Admittedly, cheque (Exh.39) was dishonoured for default in operating the bank a/c. which was issued towards discharge of admitted liability of loan amount.

In-spite of demand made by respondent/Complainant, amount against cheque issued and dishonoured was not satisfied even till date. That being so, no case for interference is made out. Hence, the Criminal Revision is dismissed.

It shall be open for the Complainant to withdraw the amount deposited in this Court towards part satisfaction of liability of compensation.

JUDGE

jaiswal