

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

CRIMINAL APPLICATION (APPA) NO. 935 OF 2019

IN

CRIMINAL APPEAL NO. OF 2020

Balaji Nagari Cooperative Society Ltd. Digras .Vs. Mohd. Amin s/o Mohd.
Gulab

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

Court's or Judge's orders.

Mr. S.U. Nemade, Advocate for applicant.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 21, 2020.

Heard Mr. Nemade, learned counsel for the
applicant/appellant.

Appellant is a credit cooperative society. From it respondent took loan to the tune of ₹2,50,000/-. As per case of the appellant the respondent turned into defaulter and therefore on 17.12.2009, a demand notice was given to him, which was duly served. The total outstanding amount against the respondent, as per appellant, is ₹3,86,959/-. In order to clear the said, the respondent issued cheque dated 21.01.2010 drawn on his banker i.e. Yavatmal Gramin Bank, Branch at Digras. When it was presented, the said cheque was not honoured by the respondent's banker and cheque was returned for the reason "funds insufficient". Thereafter after following necessary procedural aspect a complainant was lodged against respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.

Learned Magistrate on 21.09.2019 dismissed the complaint on the ground that Exhibit 45, which is an authorization to Mr. Shekhar Bharare was limited up to 06.12.2009. In my view, second thought is necessary to the reasons given by the the learned Magistrate dismissing the complaint. Hence, **Admit.**

Action under Section 390 of the Code of Criminal Procedure (Cr.P.C.) be initiated. When the respondent will be brought before the learned Judicial Magistrate First Class, Digras in pursuance to the action under Section 390 of the Cr.P.C. learned Magistrate is directed to release him on bail on executing P.R. bond in the sum of ₹5,000/-.

The application is disposed of.

JUDGE