

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 32 OF 2020

IN

STAMP NUMBER MAIN NO. 3510 OF 2019

(Filing No.)

Devappa Narayan Naik Gaonkar

..... Applicant

V e r s u s

Deepa Deepak Faldessai & anr.

..... Respondents

Mr. P. A. Kamat, Advocate for the Applicant.

Mr. D. Vernkear Advocate for the Respondents.

CORAM : NITIN W. SAMBRE, J.

DATE : 30th March, 2021

P.C.

In Criminal Case No.49/NIA/2016/B, the Judicial Magistrate First Class at Vasco Da Gama, recorded an acquittal. As such, this application for grant of leave to appeal.

2. With the assistance of learned Counsel for the Applicant-original Complainant, I have perused the various documents including that of the affidavit-cum-undertaking, the examination-in-chief and the cross examination of the Applicant-Complainant so as to find out whether the

Applicant-Complainant has discharged his initial burden.

3. It appears that the Applicant has not produced the receipts which are executed by the non-Applicant-Accused acknowledging the receipt of the amount as has been mentioned in the said document. Apart from above, though the Court below has given an opportunity to the Applicant to demonstrate that on the date the document was executed, he was personally present for advancing the amount to the non-Applicant-Accused. The Applicant has failed to discharge the same.

4. In the aforesaid backdrop, the findings recorded by the Court below of failure on the part of the Applicant to establish legally enforceable debt, appears to be very much justified as same can be borne out from the record.

5. In that view of the matter, no case for grant of leave is made out.

6. The application, as such, stands rejected.

NITIN W. SAMBRE, J.