

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

CRIMINAL APPLICATION (APPA) NO. 785 OF 2019
IN CRIMINAL APPEAL NO. _____ OF 2018

(Maharashtra Nagari Sahakari Pat Sanstha Ltd, Buldhana thr. its Loan Superintendent –
Ruparao Tukaram Ujjainkar vs. Mohd. Matin Abdul Rashid)

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. Deshpande, Advocate for the applicant -
appellant
Shri R.G. Kavimandan, Advocate for the non-
applicant – respondent.

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CORAM : PUSHPA V. GANEDIWALA, J.
JANUARY 25, 2021.

Heard Shri Deshpande, learned counsel
for the applicant - appellant and Shri Kavimandan,
learned counsel for the non-applicant – respondent.

2. This is an application under Section 378(4) of the Criminal Procedure Code for grant of leave to file Appeal against the judgment of acquittal of the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, (hereinafter referred to as N.I. Act), passed by the Chief Judicial Magistrate, Buldana, in Summary Criminal Case No. 6 of 2012.

3. A perusal of the impugned judgment would show that the applicant – complainant has

failed to prove the legally recoverable debt amount of Rs.90,000/- (Rs. Ninety thousand only) against the respondent. Admittedly, the respondent was neither the borrower nor stood as borrower in the availment of loan from the applicant – Credit society. He being real brother of the borrower, issued the impugned cheque. It is submitted that during the pendency of present application, the outstanding loan is satisfied fully. The applicant does not dispute about the same.

4. The learned trial Court in the impugned order has recorded a finding that as the Recovery Officer, in front of whom the respondent settled the outstanding loan amount and issued cheque, was not authorized to enter into compromise, therefore, the alleged compromise has no legal sanctity.

5. I do not find any perversity in the aforesaid finding given by the trial Court, warranting interference at the hands of this Court. In this view of the matter, no case for grant of leave is made out. Hence, Criminal Application is rejected. Consequently, Appeal is also rejected.

JUDGE

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