

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.69 OF 2021

WITH

CRIMINAL APPEAL NO.389 OF 2021 (F)

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IN

CRIMINAL APPEAL NO.389 OF 2021 (F)

VPK URBAN CO-OPERATIVE CREDIT
SOCIETY LTD., REP. BY PUNDALIK
RAMA PALYEKAR

... APPLICANT

Versus

PRAKASH SURESH GOGGI

... RESPONDENT

WITH

CRIMINAL APPEAL NO.389 OF 2021 (F)

VPK URBAN CO-OPERATIVE CREDIT
SOCIETY LTD., REP. BY PUNDALIK
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... APPELLANT

Versus

PRAKASH SURESH GOGGI

... RESPONDENT

Mr. Jatin Ramaiya, Advocate with Mr. Omkar Thakur, Advocate for
the Applicant.

Mr. Ryan Menezes, Advocate for the Respondent

CORAM:- VINAY JOSHI, J.

DATED :- 28th February, 2024

P.C.

Heard.

2. The Appellant-bank had initially filed a complaint for commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881. It is the Appellant-bank's case that the Respondent is in

arrears of loan amount for which cheque has been disbursed. Since the cheque was dishonoured and the payment was not forthcoming within the stipulated period, the complaint has been filed.

3. After giving full-fledged hearing, the learned trial Court though held that the account statements were proved, however, came to the conclusion that as the cheque was of excess amount, legally enforceable debt has not been established causing him to arrive at a conclusion of acquittal.

3. Learned Counsel appearing for the Appellant has pointed out that the reason canvassed by the trial Court for acquittal, is unsustainable and against the record. The other side objected differently by submitting that the trial Court is well justified since the cheque amount exceeds the outstanding claim.

4. Since the acquittal is only on the sole ground having regard to the matter of controversy, the matter requires reconsideration.

5. Leave granted. The appeal be registered accordingly.

6. Application stands disposed of.

VINAY JOSHI, J.