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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.88 OF 2022

IN

CRIMINAL APPEAL NO.361 OF 2022 (F)

THE JANASEVA URBAN COOPERATIVE

CREDIT SOCIETY LTD., REP. BY

BRANCH INCHARGE, NAGUESH BONDAIKAR ... APPLICANT

Versus

JANTON BAPTISTA COLACO

... RESPONDENT

Mr. Sanman R. Keny, Advocate for the Applicant.

Ms. Gina Almeida, Advocate under free legal aid for the Respondent.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 12th August, 2024

P.C.

1. Heard Mr. Keny learned counsel for the Applicant and Ms. Almeida learned counsel for the Respondent.
2. The present application is for grant of leave to file an appeal challenging the impugned judgment dated 31.03.2022.
3. Mr. Keny submits that a complaint was filed under Section 138 of the Negotiable Instruments Act, 1881, against the Respondents since the cheque issued for legally recoverable debt was returned unpaid. He submits that the Respondents were granted a loan by the Applicant Society being a member of the said society and he admits about such loan. However, the learned Trial Court dismissed the said complaint

only on the ground that the credit society cannot deal in banking transaction.

4. Mr. Keni submits that the Applicant is a Co-operative Credit Society duly registered under the Cooperative Society's Act and he is permitted to carry out financial business only with regard to its members. He submits that Respondent being one of the member of the society obtained loan which he was unable to repay. The cheque in question was issued towards the repayment of the loan amount.

5. Mr. Keny submits that the Banking Regulation Act is not applicable to the Society and therefore observations of the learned Magistrate are clearly against the provision of the Cooperative Society Act.

6. The contentions raised in the present application are having substance and, therefore, leave is granted by the Applicant to file an appeal challenging the impugned judgment. Accordingly, the application stands allowed.

7. Leave is granted to challenge the impugned judgment.

8. Application stands disposed of in the above terms.

BHARAT P. DESHPANDE, J.