



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.48 OF 2022
IN

CRIMINAL APPEAL NO. _____ OF 2024

Shri Rajeshwar Nagari Sahkari Pat Sanstha Maryadit, Pusad through its
Manager Manoj Sharadrao Deshpande

Vs.

Surekha Gajanan Chouhan

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

Court's or Judge's orders

Ms. Kritika Shekhar, Advocate h/f Mr. R. S. Kurekar, Advocate for
applicant.

Mr. Amit Kukday, Advocate for respondent.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/07/2024

1. By this application, the applicant is seeking
leave to prefer an appeal against the acquittal.

2. The applicant is a Cooperative Financial
Institute and the respondent is allegedly borrower,
who has obtained the loan from the said bank. It is
alleged that against the outstanding amount, the
respondent has issued a cheque bearing No.653197
for Rs.63,500/- dated 07.06.2023. It is contention of
the applicant that cheque was issued against the
legally enforceable debt, which was dishonoured and
after issuance of notice, also the respondent has not
deposited the said amount within a stipulated period.
Though notice was given the respondent has not paid
the amount therefore, a complaint is filed.

3. Learned trial Court has considered the evidence and observed that the cheque was issued of Rs.63,500/-, whereas the outstanding amount was shown less than that. Thus, the cheque is not issued against the legally enforceable debt.

4. Learned Counsel for the applicant submitted that the observation of the learned trial Court regarding the fact that cheque was not issued against the legally enforceable debt is erroneous. The applicant has every chance of success in the present appeal, she has many arguable points, in view of that, leave be granted.

5. Learned Counsel for the respondent strongly opposed the said application and pointed out that the cheque was obtained as a security, which was considered by the learned trial Court therefore, no error is committed by the learned trial Court, and therefore, no grounds are made out for grant of leave to file appeal.

6. After hearing the learned Counsels for the parties, perused the impugned judgment from which it reveals that there was a loan transaction between the applicant and the respondent. The cheque was issued towards the outstanding amount of the said loan amount.

7. Thus, considering the ground mentioned by the applicant that she has many arguable points. Leave is to be granted. In view of that application is allowed.

8. Leave is granted to file appeal.

9. The application is disposed of.

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1. Learned Counsel Mr. Kukday, waives notice for the respondent.

2. The appeal can be disposed of at the admission stage.

3. Call for record and proceedings.

4. Appeal be placed before the Court after receipt of the record and proceedings.

(URMILA JOSHI-PHALKE, J.)