

IN THE HIGH COURT OF BOMBAY AT GOA

**STAMP NUMBER (APPLN.) NO. 531 OF 2020
IN
STAMP NUMBER MAIN NO. 530 OF 2020**

VPK URBAN CO-OP. CREDIT **...Applicant**
SOCIETY LTD., REP. BY ITS
FIELD ASSISTANCE, PRASSAN R.
BANDODKAR.,

Versus

VICTORINO VINCENT GOMES **.... Respondents.**
AND ANR.,

Shri Jatin Ramaiya, Advocate for the applicant.

Coram : NUTAN D. SARDESSAI, J.

Date : 03rd August, 2020

P.C.:

Heard Shri Jatin Ramaiya, learned Advocate for the applicant.

2. Shri Ramaiya, learned Advocate submits that there was no singular dispute that the respondent No.1 had applied for a loan and had also executed the necessary loan agreement

in that regard apart from executing the promissory note dated 05.10.2011. It was also further his case that the loan amount of ₹3,00,000/- was credited in the savings account of the accused and besides an amount of ₹2,79,000/- was credited to the account of the accused by transfer to another Bank, at his instance namely, Axis Bank, and that the withdrawal slip bore the signature of the accused. Despite this fact being proved on record, the learned JMFC did not find favour with the applicant's case and thereby acquitted the respondent. It was therefore a fit case to grant leave to appeal as there was a miscarriage of justice in the appreciation of the evidence by the learned JMFC.

3. i have considered the submissions of Shri Ramaiya, learned Advocate for the applicant and besides perused the relevant part of the judgment to which he invited attention and from which it is amply demonstrated that not only was the loan transaction admitted by the respondent, there was also no particular rebuttal of the fact that an amount of ₹2,79,000/- was transferred to the account of the respondent and besides the withdrawal slip too bore his signature. In the face of this clinching material, there was

no justification for the learned JMFC to hold against the applicant and give the benefit of doubt and acquit the respondent. There is a triable case involved in this application and therefore leave to appeal is granted.

4. The JMFC to comply with Section 390 of the Criminal Procedure Code.

Nutan D. Sardesai, J.

msr.