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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1514 OF 2007

M.P.Jani	Applicant
versus	
Himmatrao Patel & anr.	Respondents

Mrs.S.R.Kumbhat for applicant.
A.J.Javeri, APP for State.
Sanjay D. Thokade for respondent no.1.

CORAM : A.S.OKA, J.
DATE : 30th January 2009

PC :

1. Heard advocate for the applicant. The applicant is the original complainant. The applicant filed a private complaint against the first respondent alleging commission of various offences under section 383, 395, 192 and 420 of Indian Penal Code. Process was issued for the offence punishable under section 420. The complaint is based on an agreement between the 1st respondent and the applicant under which the applicant agreed to purchase a Tractor with Phala and a trolly from the first respondent. The allegations of commission of offence of cheating are essentially based on the allegation that the tractor was having tyres which were torn and infact a second hand tractor was supplied by the first respondent.

2. The learned Trial Judge has found that on 13th September 2002 the tractor was delivered to the applicant and the applicant accepted the delivery. It is found that except for the bare words of the applicant there is no evidence to show that the tyres of the tractor were torn and the tractor was second hand. The finding is that even the photographs of the tractor were not produced by the applicant.

3. I have perused the notes of evidence. Except for the bare words of the applicant there is no evidence to show that the tyres of the tractor were torn and that the tractor was second hand. The view taken by the learned Judge is a possible view. No case is made out for grant of leave. The application is rejected.

4. It is further clarified that the observations made in this order are only for the limited purpose of examining the prayer of the applicant for grant of leave and the said observations will not affect the applicant in any other proceedings between the parties, if any.

((-3-))

(A.S.OKA, J.)