

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

5. CRI.APPLN/328/2014

PRAKASH DHONDIRAM HATANGALE
V/S
SHOBHABAI MADAHV KHADKE

Mr. D.D. Suryawanshi h/f. Mr. P.V. Barde, Advocate for applicant.
Mrs. M.D. Thube-Mhase, Advocate for respondent.

CORAM : T.V. NALAWADE, J.
DATED : 29th July, 2015.

ORDER :

1. The application is filed for grant of leave to file appeal against the judgment and order of acquittal in S.T.C. No. 275/2008 made by the learned J.M.F.C., Udgir.

2. The respondent is acquitted of the offence punishable under section 138 of Negotiable Instruments Act on the ground that the statutory notice was not sent on correct address and it cannot be said that the demand of the cheque amount was made by sending the statutory notice to the accused. The discussion of the reasoning shows that accused took the defence that she is resident of Hotel Gokul, Jainur, Tahsil Nilanga when the notice was sent to accused at Panchal Coloney, Nilanga and also at Gokul Bar and Permit Room, Ambulga. The learned counsel for the applicant submitted that

when the case was tried, the complainant was not having record, but now she is having record to show that the accused has taken the telephonic connection and there is record to show that as per the record of telephone office, she is resident of Gokul Bar and Permit Room, Ambulga, where the business is done and she has also given her address as Basweshwar Nagar, Panchal Coloney, Nilanga. In view of these circumstances and in view of the provisions of section 391 of Cr.P.C., this Court holds that leave needs to be granted. So the application is allowed. Leave is granted.

3. Appeal is **admitted**. Notice after admission is made returnable on 7.9.2015.

4. Copy of aforesaid record is taken on record in the application.

[T.V. NALAWADE, J.]

ssc/