

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

3. CRI.APPLN/497/2015

KARBHARI S/O KASHINATH JOSHI
V/S
BHAUSAHEB S/O PANDURANG BORASE

Mr. S.B. Choudhari, Advocate for applicant.

CORAM : T.V. NALAWADE, J.
DATED : 6th August, 2015.

ORDER :

1. The application is filed for grant of leave under section 378 (4) of Cr.P.C. to file appeal against judgment and order of S.C.C. No. 6486/2013 which was pending in the Court of J.M.F.C., Aurangabad. The J.M.F.C. has acquitted the respondent of the offence punishable under section 138 of Negotiable Instruments Act in a private complaint filed by the applicant.

2. The reasoning shows that the Court has held that it is not proved by the complainant that there was existing liability and against the existing liability, the cheque was issued. The complainant came with a specific case that there was some machinery with the accused which was belonging to the complainant and behind the back of the complainant, the accused had sold the machinery and he had not given the

consideration amount and as against the price of machinery, the cheque was issued. In view of such submissions, there is no possibility of possessing any document by the complainant. This Court holds that there is good arguable case in the appeal. So, the application is allowed. Leave is granted. Record and proceeding is already received.

3. Appeal is **admitted**. Notice after admission made returnable on 14.9.2015.

[T.V. NALAWADE, J.]

ssc/