

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 636 OF 2013**

Dnyandeo Dadarao Patil

.. Applicant

Vs.

Waman Ram Gund

.. Respondent

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Mr. A.N. Irpatgire, Advocate for applicant

Mr. S.S. Kulkarni, Advocate i/b Mr. K.M. Chandaliya, Advocate  
for respondent

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**CORAM : M.T. JOSHI, J.**

**DATE : 25/08/2015**

**ORAL ORDER :**

Heard both sides.

2. Aggrieved by the acquittal of the respondent from the offence punishable under section 138 of the Negotiable Instruments Act, the present applicant wants to file appeal and, therefore, the present application for leave to file appeal.

3. Learned Judicial Magistrate First Class, Osmanabad has come to the conclusion that the transaction between the parties is a money lending transaction.

4. Learned counsel for the applicant made number of submissions. He submitted that the point for determination is not framed correctly. Further the learned Judicial Magistrate First Class failed to take into account that though the present respondent-accused had refused to accept the notice and, therefore, it was deemed to be served upon him, he failed to give reply to the same.

5. Upon going through the record, since arguable case is made out, leave to file appeal deserves to be granted. Leave to file appeal is hereby granted.

6. Appeal be registered as per due procedure of law.

7. Application accordingly stands disposed of.

**[M.T. JOSHI]**  
**JUDGE**

arp/