

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

Criminal Application No.1182 of 2014

Sheshrao s/o Rakhmaji Kale. **.. Applicant.**

Versus

Balaji s/o Kailas Puri. **.. Respondent.**

Shri. Milind K. Deshpande, Advocate, for applicant.

Shri. U.H. Bhogle, Additional Public Prosecutor, for State.

CORAM: T.V. NALAWADE, J.

DATE : 7th AUGUST 2015

ORDER:

1) The application is filed for grant of leave under section 378(4) of the Code of Criminal Procedure, 1973 to file appeal against the judgment and order of S.C.C. No.3008 of 2012 which was pending in the Court of the Judicial Magistrate Aurangabad. The respondent is acquitted of an offence punishable under section 138 of the Negotiable Instruments Act.

2) Learned counsel for the applicant, complaint is heard. Seen the reasoning given. Seen the record. The accused took defence that there was some transaction

with regard to purchase of one plot and the cheques in question were given in respect of that transaction and they are misused. No other defence is taken. No record is produced. The acquittal is given by holding that entry with regard to the loan transaction is not made in any record of the complainant. It is not the case that he used the money in some business or that he is doing money lending business. In view of these circumstances, there is arguable case to the complainant. So, the application is allowed. Leave is granted.

3) The appeal is admitted. Notice after admission made returnable on 16th September 2015.

Sd/-
(T.V. NALAWADE, J.)

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