

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1554 OF 2015
(Smt. Kusum d/o Padmanna Mangudkar Vs. Janardhan s/o
Baburao Aakade)

Mr. Deelip N. Patil-Bankar, Advocate for the applicant
Mr. V.V. Ingale, Advocate for the respondent

CORAM : M.T. JOSHI, J.
DATE : 08/07/2015

ORAL ORDER :

1. Heard both sides.
2. Aggrieved by the recording of acquittal of the respondent from the offence punishable under section 138 of the Negotiable Instruments Act, 1881, the applicant wants to prefer an appeal. Hence, the present application for grant of leave to file appeal is filed.
3. The reading of the judgement passed by the learned Judicial Magistrate First Class, Osmanabad in S.C.C. No. 2218/2002, dated 18.02.2015, would show that as there was some difference in the date regarding the starting point of the transactions, in the oral deposition than the written complaint and besides this finding that there is no evidence regarding financial capacity of the applicant-lady, the respondent was acquitted.

4. The learned counsel for the applicant submits that the learned Judicial Magistrate First Class ought to have taken into consideration that the complainant was 76 years old lady and merely because certain mistakes in giving the dates in the witness box had occurred, that could not have been one of the causes for acquittal of the respondent.

5. At this stage, there is no need to make any comment on merit of the case. However, as the arguable case is made out, leave to file appeal is hereby granted. Office to register the criminal appeal.

6. On registration of the appeal, Mr. V.V. Ingale, learned counsel waives service of notice for the respondent.

7. The appeal, upon registration thereof, be fixed for hearing on admission on 15th July, 2015.

[M.T. JOSHI]
JUDGE

npj/criapln1554-2015