

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

CRIMINAL APPLICATION NO.1877 OF 2014

Suresh Anandraj Jain (Tatiya) ... APPLICANT

VERSUS

Chanda Shekhar Tadvī ... RESPONDENT

.....
Shri G.S. Rane, Advocate for applicant
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CORAM: A.I.S. CHEEMA, J.

DATED: 5th January, 2015.

ORAL ORDER :

1. Heard counsel for the applicant. Perused record. Counsel for applicant is relying on the case of **C.C. Alavi Haji Vs. Palapetty Muhammed & anr.,** reported in **AIR 2007 SC (Supp) 1705** where, in para 17 of the judgment, the Hon'ble Supreme Court observed that if the drawer claims that he did not receive the notice sent by post, he can, within 15 days from the receipt of summons from the Court in respect of the complaint under Section 138 of the Act, make payment of the cheque amount and submit to the Court that he had made payment within 15 days of receipt of summons and, therefore, the

complaint is liable to be rejected.

2. Relying on the above judgment, the learned counsel is submitting that the judgment of the trial Court requires to be re-considered holding that notice was not duly served, the trial Court has acquitted the accused.

3. There is arguable case. The application is allowed. Application is converted into appeal.

4. Appeal is **admitted**.

5. Paper Book be got prepared.

6. Action under Section 390 of the Code of Criminal Procedure be taken against the accused in the trial Court.

(A.I.S. CHEEMA, J.)