

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

CRI.APPLN.NO.3113 OF 2015

921 CRIMINAL APPLICATION NO. 3113 OF 2015

DILIP S/O JAGANNATH GHOLAP

VERSUS

TYATYA SHANKAR ITKAR

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Advocate for Applicant : Mr.Jadhav N.l.

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CORAM : P.R. BORA, J.

Dated: December 02, 2015

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PER COURT :-

1. Heard learned Counsel appearing for the applicant. Though the respondent is duly served, has not entered his appearance either in person or through Counsel.

2. The applicant is seeking leave to file appeal against the judgment and order dated 18.5.2015 passed by the Judicial Magistrate, First Class, Washi, in Summary Criminal Case No.255/2011, for the offense under Section 138 of the Negotiable Instruments Act.

3. I have gone through the impugned judgment. It appears that the learned Judicial Magistrate has recorded acquittal of the accused therein holding that the complainant has failed to establish that the cheque in question was issued by the accused towards legally enforceable liability. Present applicant has disputed the correctness of the finding so recorded by the -

AGP/-

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learned Magistrate. The applicant has raised arguable issues. Having regard to the submissions made on behalf of the applicant and the contention so raised in the application, prima facie, it appears that the reasoning recorded by the trial Court needs to be reconsidered. There is arguable case and, therefore, I am inclined to allow the present application. Hence, the following order:

ORDER

- (a) Leave to prefer appeal is granted.
- (b) Application be treated as appeal and be registered accordingly.
- (c) The Appeal is **admitted**.
- (d) Action under Section 390 of Cr.P.C. be initiated.

(P.R. BORA, J.)

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AGP/-