

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5309 OF 2014

Sahebrao S/o Vithalrao Munde
Age : 59 years, Occu.: Service,
R/o Swarajya Nagar, Barshi Road,
Beed, Tq. & Dist. Beed

.. Applicant
(Orig. Complainant)

Vs.

Manik S/o Ganpatrao Kande
Age : 66 years, Occu.: Agriculture
R/o Jahagir Moha Post Chondi
Tq. Dharur, Dist. Beed

.. Respondent
(Orig. Accused)

Mr. C.R. Deshpande, Advocate for the applicant
Mr. P.M. Shinde, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 20/03/2015

ORAL ORDER :

1. Heard both sides.
2. In the present application for leave to prefer appeal against the acquittal recorded by the learned Judicial Magistrate First Class, Beed from the offence punishable under section 138 of the Negotiable Instruments Act, the legal question has arisen, as to whether the cheque issued by the present respondent can be called as towards the *security* or towards the *legally*

enforceable debt. Further, the conduct of the applicant in not issuing notice before presenting the cheque for honouring the same, is also to be looked into from different perspective.

3. In the circumstances, as arguable case has arisen, leave to file appeal is hereby granted. Appeal be registered. Upon registration, the appeal is admitted. Mr. P.M. Shinde waives notice for the respondent.

4. The learned Judicial Magistrate First Class, Beed is directed to take action as per the provisions of section 390 of the Code of Criminal Procedure. The applicant – Sahebrao S/o Vithalrao Munde be released on bail, upon his executing P.R. bond in the sum of Rs.10,000/- (Rs. Ten Thousand) and also upon furnishing surety in the like amount and accordingly the compliance report be sent by the learned Judicial Magistrate First Class, Beed. Hamdast granted.

[M.T. JOSHI]
JUDGE

arp/