

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5608 OF 2014

Ashok Madanlal Mawal .. Applicant

Vs.

M/s Nilesh Engineering and others .. Respondents

Mr. A.P. Bhandari, Advocate for the applicant

Mr. M.M. Patil (Beedkar), Advocate for respondent nos.1 to 3

Mr. P.N. Muley, A.P.P. for the respondent no.4-State

CORAM : M.T. JOSHI, J.

DATE : 29/09/2015

ORAL ORDER :

1. Heard both sides.
2. The issue in the present application for leave to file appeal against the order of acquittal of the respondents 1 to 3 from the offence punishable under section 138 of the Negotiable Instruments Act recorded by the learned Judicial Magistrate First Class, Ahmednagar, is as to whether the presumption, upon passing of the cheque by the complainant, is rebutted or not.

3. Upon hearing both sides, in my view, arguable case is made out by the applicant. In the circumstances, leave to file appeal is granted.

4. Criminal Application no. 5608 of 2014 is allowed and disposed of accordingly.

5. Appeal be registered as per the due procedure of law.

6. Upon registration of the appeal, Mr. Milind Patil Beedkar waives notice for the respondents 1 to 3 Mr. Muley, learned A.P.P. waives notice for respondent no.4-State.

7. For the above reasons, the Appeal is also admitted. Print of the paperbook is dispensed with.

8. The respondents nos. 1 to 3 be released on bail for remaining present in this Court during the hearing of the appeal, upon their execution of P.R. bonds in the sum of Rs.10,000/- (Rs. Ten Thousand) each and also upon furnishing surety each in the like amount, as per the provisions of section 390 of the Code of Criminal

Procedure.

9. Hamdast of the present order is granted to the respondents.

[M.T. JOSHI]
JUDGE

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