

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

908. CRI.APPLN/6469/2013 In CRI.APPLN/6468/2013 WITH
CRI.APPLN/6468/2013

RAGHAVENDRA SUPPLIERS PVT.LTD.
V/S
M/S.SWAPNA CONSULTANT AND ANOTHER

Mr. A.D. Ostwal, Advocate for applicant.

Mr. S.A. Ambad, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 29th July, 2015.

ORDER :

1. Criminal Application No. 6469/2013 is filed for condonation of delay of 45 days caused in filing the application under section 378 (4) of Cr.P.C. Notice of the proceeding was served on respondent, accused, but nobody has turned up for him. In view of the contents of the application and submissions made, this Court holds that sufficient cause is shown. The application is allowed. Delay is condoned.

2. Criminal Application No. 6468/2013 is filed for grant of leave to file appeal under section 378 (4) Cr.P.C. Respondent/accused is acquitted of the offence punishable under section 138 of Negotiable Instruments Act. Seen the record and the reasoning given by the trial Court. It appears that

by mistake in the complaint, the name of the proprietor of the concern was mentioned as Mahesh when it was Ganesh. The statutory notice was sent to Ganesh and this is the ground for acquittal by the trial Court. It appears that the amendment was carried out in the title clause and name was corrected. However, it appears that some mistake was committed by the counsel of the complainant. Though the notice was sent to Ganesh, the name was mentioned as Ganesh in the complaint, Subsequently, the name was corrected as Manesh in complaint. The submissions made, however, show that the accused is proprietor and the cheque is issued by the proprietor of M/s. Swapna Consultant. In view of these circumstances and submissions made this Court holds that there is arguable case to the complainant. So, the application is allowed. Leave is granted.

2. Appeal is **admitted**. Call record and proceeding. Notice after admission to respondent made returnable on 4.9.2015.

[T.V. NALAWADE, J.]

ssc/