

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 7 of 2014.

Nanikram U. Talreja ..Applicant/Appellant.
Vs.
Laxman P. Jagwani & Anr ..Respondents.

Mr S.K.Gawada, Advocate for the Applicant.

Mrs P.P.Bhosale, APP for the State.

CORAM : A.R.JOSHI,J
DATE : 8th JULY, 2015

PC. :

- 1) Heard rival submissions on this application for leave to prefer appeal challenging the acquittal of the respondent No.1 in the matter of offence punishable under section 138 of Negotiable Instruments Act.
- 2) The cheque dishonour memo issued by the banker of the respondent-accused intimating the dishonour to the banker of the applicant was held not showing the name of the respondent-accused and on this basis the trial Court came to the conclusion that the fact was not established by the applicant original complainant that the respondent had account with the concerned bank on whom the cheque was given. The trial Court also came to the conclusion that

the name of the present respondent is not mentioned in the said cheque dishonour memo which is internal transaction between two banks, indicate that the said dishonour memo is not for the concerned cheque. Even this finding of the trial Court requires consideration, as *per se*, it is fallacious to come to the conclusion that the applicant had failed to establish that the respondent had not having any bank account with his own bankers. In any way, the present matter is required to be admitted and hence the application for leave is allowed. Application is disposed of.

3) The appeal is admitted. Process under section 390 of Cr.P.C. be issued against the respondent No.1 with directions to the trial Court to release him on bail in the sum of Rs.500/-. Learned APP for respondent No.2 waives service.

4) Call for R and P

(A.R.JOSHI, J.)