

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.97 OF 2013

Sanjeev G. Kochar	..Applicant
<i>Versus</i>	
State of Maharashtra and others.	..Respondents

....
Mr. R. Shah i/b. M/s. Lex Conseiller, for the Applicant.
Mr. O.P. Tiwari i/b. A.M. Saraogi, for the Respondent Nos.2 to 4.
Mr. A.R. Patil, APP, for the State.

....

CORAM : A. R. JOSHI, J.

DATE : 14th JULY, 2015

P.C.

1. Heard rival submissions on this leave to file appeal challenging acquittal of the respondent in the matter of offence punishable under Section 138 of Negotiable Instruments Act.

2. According to the complainant present applicant/complainant, a cheque for Rs.9 Lakh was given to him by the respondent as and by way of fees towards the consultation and other contractual charges as the complainant was mediator between the two parties, the respondent being one of them. Giving of the cheque with signature and the

amount is not disputed by the respondent. However, what weighed with the trial Court was apparent delay of 23 months for giving said cheque by the respondent to the complainant. In fact apparently there is no significance of such delay in giving the cheques. The only question should be whether the cheque was deposited with the banker within its period of validity and whether it was dishonored and the payment was not made.

3. Considering the rival submissions, in the opinion of this Court there is a debatable issued to be dealt in detail at the time of hearing of the appeal and as such present application for leave to file appeal is allowed. Appeal is admitted. Process under Section 390 of Cr.P.C. be initiated against the respondent Nos.2 to 4 with directions to the trial Court to release said respondent Nos.2 to 4 on bail in the sum of Rs.500/- each. Call for R & P. Application for leave is accordingly disposed of.

(A. R. JOSHI, J.)

Deshmane (PS)