

Ladda

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

*CRIMINAL APPLICATION No.106 of 2013
ALONG WITH
CRIMINAL APPLICATION No. 1313 of 2012*

Siddhappa Rayyappa Mudegoal ..Applicant.

Vs

Rammanna Satayyappa Pradhane & Anr ..Respondents.

Mr Manoj Patil, Adv. for the Applicant.

Mrs P.P. Bhosale APP for the State.

Mr K. S. Patil, for Respondent No.1.

CORAM : A.R.JOSHI,J

DATE : 29th JUNE, 2015

P.C. :

1) Heard rival submissions in these applications preferred by the applicant for leave to file appeal challenging the acquittal of the respondent No.1 in the matters of offence punishable u/s 138 of Negotiable Instruments Act.

2) What weighed with the trial Court was apparent lack of financial capacity of the original complainant for arranging Rs. 6 lakhs given in different installments to the respondent No.1-accused. It appears that giving of a cheque by the accused to the complainant has not been disputed. Moreover, there is nothing by way of defence even on principle of preponderance of probability that the concerned cheques were given for some other allied transactions as to purchase of some agricultural lands and transactions between the applicant, respondent No.1 and one Mr Charke. It is a factual position that said

Charke has not been examined by the respondent No.1. Even the respondent No.1 did not enter into witness box and lead any evidence even to substantiate his defence on preponderance of probabilities.

3) As such considering the above, in the opinion of this Court, there is a debatable issue involved which is required to be dealt with in detail at the time of hearing and disposal of the appeals which are required to be admitted.

4) Both the applications for leave to file appeal are allowed. The appeals are admitted. Call for R and P. Process u/s 390 of Cr.P.C. be issued against respondent No.1 with direction to the trial Court to release him on bail in the sum of Rs.500/- in both the matters separately.

5) The learned APP for the respondent No.2 waives service.

6) Both the applications are disposed of.

(A.R.JOSHI, J.)