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

CRIMINAL APPLICATION No. 156 of 2015

Farouk Sodagar Darvesh & Co. Pvt Ltd. ..Applicant.

Vs

M/s Vardhan Constructions and Ors ..Respondents.

Mr Kishor N. Bhatia, Advocate for the Applicant.

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

Mr J. S. Chandnani i/by Mr R.S.Motwani for
Respondent Nos. 1 and 2.

CORAM : A.R.JOSHI,J

DATE : 2nd July, 2015

PC. :

1) Heard rival submissions on this application for leave to file appeal challenging the judgment and order of the acquittal of respondent Nos. 1 and 2 in the matter of offence punishable under section 138 of the Negotiable Instruments Act.

2) What weighed with the trial Court was apparent anomaly in the amount advanced and the amount of cheque inasmuch as according to the trial Court the interest accrued on the said amount was not to the extent as it was apparently shown by the complainant. Though the defence of the respondents was that the cheque was never given to the complainant and in fact it was obtained by the complainant by

other means and misused, there is nothing on record that any complaint was lodged by the respondents at-least to substantiate their such defence. The Court had held that the applicant had proved to establish the legal enforceable liability for the amount of cheque which was dishonoured. But considering the material on record, in the opinion of this Court, there is debatable issue and which can be dealt with in detail at the time of hearing of the appeal which is required to be admitted.

3) Hence, the present application for leave is allowed. Same be treated as appeal and be numbered. The appeal is admitted. Process u/s 390 of Cr.P.C. be issued against respondent No.2 with directions to the trial Court to release him on bail in the sum of Rs. 500/- Call for R and P.

(A.R.JOSHI, J.)