

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.241 OF 2013

Mr. Sanjeev Suresh Kamdar	..Applicant
<i>Versus</i>	
Mr. Ashok Jain and another	..Respondents

....
Mr. S.M. Gorwadkar, for the Applicant.
Mrs. P.P. Bhosale, APP, for the Respondent-State.
....

CORAM : A. R. JOSHI, J.

DATE : 14th JULY, 2015

P.C.

1. Heard learned Counsel for the applicant in this application for leave to file appeal challenging the judgment and order of acquittal passed by the J.M.F.C., Pune dated 12.7.2012.
2. The respondent No.1 – original acquitted accused is already served with the notice. Report to that effect is already filed. None present for respondent No.1.
3. What weighed with the trial Court was apparent defence of the respondent that the concerned cheque was given as and by way of security. The Court was influenced by some

factual position as to the difference in the ink of the signature on the cheque and the name of the payee mentioned in the cheque. The Court was also apparently influenced by some admission given by the complainant that in his presence the cheque was not signed by the respondent. In fact the significant aspect as to the respondent not entering into witness box for giving his evidence to substantiate his defence, is a crucial aspect which was ignored by the trial Court.

4. In any event in the opinion of this Court, there is a debatable issue to be dealt with in detail at the time of final hearing of the appeal. As such, present application is required to be allowed and the same is allowed. Leave granted. Appeal is admitted. Call for R & P. Process under Section 390 of Cr.P.C. be initiated against 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 – State waives service.

(A. R. JOSHI, J.)

Deshmane (PS)