

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**Criminal Application [APPA] No.106 of 2014**

***(Manohar Makkanlal Agrawal vs. Manoj Abarao Deshmukh)***

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

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Court's or Judge's Orders

Mr. A.J. Thakkar, Advocate for the Applicant.

Mr. A.A. Naik, Advocate for the Non-Applicant sole.

**CORAM : V.M. DESHPANDE, J.**

**DATE : AUGUST 24, 2015.**

Being aggrieved by the judgment and order of acquittal passed by the learned Judicial Magistrate First Class, Malkapur in Summary Criminal Case No.18/2012 on 29/11/2013, whereby the learned trial Magistrate acquitted the non-applicant for the offence punishable under Section 138 of the Negotiable Instruments Act, the applicant is before this Court.

Heard Mr. Thakkar, learned Counsel for the applicant/complainant and Mr. Naik, learned Counsel for the non-applicant/accused.

An agreement for sale [Exh.41] was executed by one Umesh Shivajirao Deshmukh in favour of the complainant. The said was for transaction of a flat to be constructed on a piece of land. The said agreement is dated 21/10/2010. The accused has signed the said agreement as one of the witnesses.

According to the learned Counsel for the applicant

that the accused is having close acquaintance with Umesh Deshmukh and on the basis of his assurance, he has entered into an agreement with Umesh Deshmukh. He submitted that Umesh Deshmukh was unable to construct the flat and, therefore, the accused issued a cheque in dispute, which was dishonoured by his banker.

The agreement for sale [Exh.41] does not reflect that the accused acted as mediator. The complaint filed before the Court below is completely silent that any amount was received by the accused from the complainant. Admittedly, no amount was received by the accused from the complainant. Further, there is nothing available on record to show that the accused has accepted the liability of Umesh Deshmukh and in pursuant to that, he has issued the cheque in question.

In that view of the matter, I see no reason to interfere with the judgment and order of acquittal. Hence, the application is rejected.

**JUDGE**

*\*sdw*