

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

**CRIMINAL APPLICATION (APPA) NO.610 OF 2014
SHRI. RAMRAO RAGHOBaji PETHE (SINCE DECEASED) THROUGH HIS
LRS. NARENDRA RAMRAO PETHE AND ANOTHER
V/S
SHRI. PRAMOD NILKANTHRAO THOSAR**

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

Shri V.K. Gulhane, counsel for the applicants.

**CORAM : PRASANNA B. VARALE, J.
DATE : MARCH 12, 2015**

Heard.

Perusal of record shows that the notice was issued by this Court on 19.12.2014. Though the same was served, on 26.2.2015 none appeared for the non-applicant. This Court, granting an opportunity to the non-applicant, adjourned the application to today. Today also, none appears for the non-applicant.

Shri V.K. Gulhane, learned counsel for the applicants, submits that the learned Judicial Magistrate First Class grossly erred in acquitting the non-applicant / accused of the offence punishable under Section 138 of the Negotiable Instruments Act. He submits that though the learned Judicial Magistrate

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First Class specifically observed that the complainant has proved the other ingredients of Section 138 of the Negotiable Instruments Act, he failed to establish and prove that the accused person issued the cheque in question to discharge the legally enforceable liability. He submits that the learned Magistrate failed to appreciate the material namely contrary and evasive defences and also the fact that the relations between the parties were strained and amount involved was hardly of Rs.50,000/-. As such, there was no occasion for the appellant to record the transaction etc. in writing or issuance of receipt etc..

ADMIT.

The record and proceedings be called for.

JUDGE

!! BRW !!

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