

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

Criminal Application No. 4244 of 2015

District : Aurangabad

Dr. Babasaheb Ambedkar Nagari Sahakari
Bank Ltd., Mill Corner, Aurangabad,
Through its authorized signatory
Balu Chandrakant Mirge,
Age : 30 years,
Occupation : Service,
R/o. Bhagatsinghnagar, Harsool,
Aurangabad.

.. Applicant
(Original complainant)

versus

1. Kaleem Ahemadkhan,
Age : 48 years,
Occupation : Business,
R/o. Galli No. 3, H.No. 20-A,
Tense Colony,
Opp. Amanulla Motiwala
High School, Aurangabad.

2. The State of Maharashtra.

.. Respondents.

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Mr. K.A. Ingle, Advocate, for the applicant.

*Mr. Shaikh Moinuddin, Advocate, holding for
Mr. S.S. Kazi, Advocate, for respondent no.1.*

*Mr. D.V. Tele, Addl. Public Prosecutor, for
respondent no.2.*

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CORAM : N.W. SAMBRE, J.

DATE : 15TH MARCH 2016

PER COURT :

1. Heard the learned Counsel for respective parties.
2. By the present application, the applicant (original complainant) seeks leave to file appeal against the order of acquittal recorded by the learned Judicial Magistrate (F.C.), Aurangabad, in Summary Criminal Case No. 6290/2006, vide judgment and order dated 10th June 2015, thereby acquitting present respondent no.1 of the offence punishable under Section 138 of the Negotiable Instruments Act 1881.
3. Upon perusal of Exhibit 77, in my opinion, the findings recorded by the learned Magistrate, in relation to appreciation of evidence about Exhibits 85 & 86 and further giving verdict that those Exhibits were not proved, require consideration.
4. Hence, the Application is allowed. Leave to file appeal is granted. Present Application be treated as memo of appeal and the same be registered and numbered as Criminal Appeal. The Application is accordingly disposed of.
5. Appeal **Admit.**
6. The learned Counsel appearing for respondent no.1 (original

accused) waives service of notice upon admission of the appeal, on behalf of respondent no.1. The learned Addl. Public Prosecutor waives service of notice upon admission of the appeal, on behalf of respondent no.2 - State.

7. Action under Section 390 of the Code of Criminal Procedure 1973, to follow against respondent no.1 (original accused) before the trial Court.

(N.W. SAMBRE)
JUDGE

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