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

CRIMINAL APPLICATION NO. 4173 OF 2015

M/s Krishidhan Seeds Private Limited ..APPLICANT

VERSUS

Mr Bhikulal Ramprasad Kasat & anr. ..RESPONDENTS

Mr S. J. Salunke, Advocate for applicant;
Mr Swapnil Joshi, Advocate, J. P. Legal Associates for respondents

CORAM : N.W. SAMBRE, J.

DATE : 30th June, 2016

ORDER :

This is an application seeking leave to file an appeal against the acquittal ordered.

2. The complaint case bearing S.T.C. No. 1057 of 2011, for offence punishable under Section 138 of the Negotiable Instruments Act, filed by Complainant – Company, came to be rejected by the learned Judicial Magistrate First Class, Court No. 3, Jalna, on the ground that the authority to file complaint was not proved.

3. Perused the entire records. Learned Counsel appearing on behalf of the applicant submits that, what was produced on record on behalf of the complainant – Company is, a notarized certified copy of special power of attorney and photocopy of resolution of Board of Directors of the

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complainant/applicant Company through the complainant to prove the authority to file complaint. According to him, the complaint was initially filed by Shri Abhay Suresh Andure on behalf of the complainant Company, who thereafter resigned from Company and complainant's witness CW-1 – Nandkishor Shamrao Deshmukh was very much authorized to depose on behalf of the complainant-Company by the Board of Directors.

4. The above referred submissions, if tested in the light of observations made by the learned Magistrate in the order of acquittal, it is required to be noted that CW-1 has not produced original special power of attorney and resolution of the Board of Directors of the complainant/applicant Company, though original of the same was not produced, complainant has not sought permission from the Court to lead secondary evidence. Apart from above, the complainant has not produced and proved the original documents. Hence, the Magistrate observed that authority to file complaint was not proved, which appears to be correct observations.

5. In the above background, no case for grant of leave to file an appeal is made out. Criminal Application fails and stands rejected.

(N.W. SAMBRE, J.)

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