

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

912 CRIMINAL APPLICATION NO. 1407 OF 2016

ANNASAHEB S/O BALASAHEB HIPPARAKAR
VERSUS
VAISHALI D/O BHAGWANRAO PATIL AND ANR

Shri. Girish N. Kulkarni (Mardikar), Advocate, for
applicant.

Shri. T.M. Venjane, Advocate, for respondent No.1.

Shri. P.G. Borade, Additional Public Prosecutor, for
respondent No.2.

Coram: T.V. NALAWADE, J.

Date: 20 December 2017

ORDER:

1) Heard learned counsel for the applicant. Seen the judgment of the trial Court and also the judgment delivered by the Sessions Court. The trial Court has convicted respondent No.1-accused for offence punishable under section 138 of the Negotiable Instruments Act. The appellate Court has set aside the conviction by observing that the account extract is not produced by the complainant to show that there was such transaction. It is also observed that it was necessary for the complainant to

prove that there was some legally enforceable liability. The judgment does not show that provision of section 139 of the Negotiable Instruments Act was touched by the learned Judge of the Sessions Court.

2) In view of these circumstances, this Court holds leave needs to be granted. The application is allowed. Leave is granted. The appeal is admitted. Notice after admission. It is waived by the learned counsel for the respondent - accused and the learned Additional Public Prosecutor.

Sd/-
(T.V. NALAWADE, J.)

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