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

906 CRIMINAL APPLICATION NO. 2752 OF 2016

**MAHARUDRA S/O JIJABA GADEKAR
VERSUS
MOHAN S/O SUKHDEV PADWAL**

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Mr. Satish A. Gaikwad, Advocate for Applicant.

Mr. Raghvendra Bhise h/f Mr. N.L. Jadhav, Advocate for Respondent.

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CORAM : A. M. DHAVAL, J.

DATED : 21.09.2017

ORDER :-

1. Heard learned counsel for the Applicant-original complainant seeks leave to file appeal against acquittal under Section 378(4) in the Code of Criminal Procedure, 1973.

2. The record and proceedings is perused. The cheque of Rs.3,00,000/- purportedly signed by the Respondent, when presented in the bank was dishonored. The Applicant-original complainant had issued notice, which was refused by the Respondent-accused.

3. There is no complaint to police or report to bank of loss of cheque. The demand notice was not replied. The Respondent has not examined any witness. The signature on the

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cheque is admitted and the cheque is dishonored. Issuance of notice and failure to comply with the notice are on record.

4. The presumption under Section 139 of the Negotiable Instrument Act, 1881 will have to be properly considered. The complainant has arguable case.

5. Hence, leave is granted. Appeal is admitted. Learned trial judge be informed to comply with the Section 390 of Criminal Procedure Code, 1973 and release the accused on bail.

[A. M. DHAVAL, J]

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