

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

905 CRIMINAL APPLICATION NO.2775 OF 2017

SMITA D/O. VIJAY PHADNIS
VERSUS
BALIKA W/O. SHAILENDRA PADILE AND ANR

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Advocate for Applicant : Mr. Panale Sachin S.
Mr. Dharashive M.L., Adv. For R. No.1.
Mr. PN Kutti, APP for Resp.No.2-State;

CORAM : P.R.BORA, J.

DATE : 12th September, 2017.

PER COURT :

1) Heard learned Counsel for the respective parties. Perused the impugned judgment.

2) The learned Magistrate has held that the complainant failed to prove that the cheque, in question, was issued in discharge of any legal liability. As discussed by the learned Magistrate, the transaction was of *Bhissi* and as such, cannot be held to be a legal transaction and that has resulted in recording a finding of acquittal by the Court.

3) On perusal of the judgment, it appears that the evidence adduced in the matter as well as the finding based on the said evidence, will have to be re-appreciated in light of the case made out by the complainant. *Prima facie*, a case is made out by the applicant to grant leave as prayed for, so that the matter can be heard on merits. I am, therefore, inclined to allow the present application. Hence, the following order, -

ORDER

- i) The application is allowed;
- ii) The appeal be registered in accordance with law;
- iii) After registration of the appeal, issue notice to the respondents. Learned Counsel and learned APP waive service for respective respondents;
- iv) List the matter for admission after four weeks.

(P.R.BORA, J.)

bdv/