

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

**CRIMINAL APPLICATION NO. 3192 OF 2017**

**GANESH BALKRUSHNA PATIL  
VERSUS  
GOPAL SHALIK PATIL**

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Mr.V.P.Patil, Advocate for applicant  
None present for respondent

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**CORAM : SANGITRAO S. PATIL, J.  
DATE : AUGUST 11, 2017**

**PER COURT :**

The applicant has sought leave to file appeal against the order dated 07.03.2016 passed by the learned Judicial Magistrate F.C., Jalgaon in Criminal Case No.288 of 2013 acquitting the respondent vide Section 256 of the Code of Criminal Procedure ("the Code", for short).

2. Mr.K.B.Jadhav, learned Counsel appeared on behalf of the respondent in response to the notice served on the respondent. However, none present for the respondent today. On 10.08.2017 also, nobody was present on behalf of the respondent when the application was called out. In order to extend an

opportunity of hearing to the respondent, the application was adjourned till today with a clear understanding that, in case nobody appears today on behalf of the respondent, the application will be heard in the absence of the respondent.

3. Heard the learned Counsel for the applicant - original complainant. The complaint was filed by the applicant for the offence punishable under Section 138 of the Negotiable Instruments Act. The respondent came to be acquitted vide Section 256 of the Code, on the ground that none remained present on behalf of the applicant before the trial Court when the complaint was called for hearing. The applicant has challenged the said order on certain valid grounds justifying his absence before the trial Court on the day on which, the complaint was dismissed.

4. Considering the grounds mentioned in the application, I think fit to grant leave to the applicant to file appeal against the impugned order.

5. The application is accordingly allowed. The appeal be registered. The application is disposed of.

6. List the appeal for admission on 04.09.2017.

**[SANGITRAO S. PATIL, J.]**

kbp