

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.57 OF 2016
(For Leave to appeal – Private)**

Nathalal Parekh Charity Trust ... **Applicant**

V/s.

Mr.Paras G. Buddhadev & Anr. ... **Respondents**

.....

Mr.Kishor Bhatia, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 23rd June 2017.

P.C. :

1 None for the respondent No.1/original accused.

2 Heard the learned Advocate appearing for the applicant/original complainant. He argued that a cheque for Rs.15,00,000/- was issued by the respondent No.1 in favour of the present applicant/original complainant for discharging legally payable debt. But the said cheque was dishonoured. The learned Advocate drew my attention to the admissions given by the respondent No.1/original accused regarding receipt of amount by the respondent No.1/original accused. It is further pointed that the learned trial Court itself has disbelieved the defence of the respondent/accused that the amount was paid to be respondent/accused for making Short Term investment in the

Stock Market. With this the learned Advocate for the applicant/original complainant submitted that the learned trial Court erred in believing some emails exchanged between the respondent/original accused and one Rajdeep who is not concerned with the applicant/original complainant which is a public trust.

3 From the impugned Judgment and Order of acquittal, it is revealed that receipt of the amount by the respondent/accused as well as issuance of cheque for part repayment of that amount is not in dispute. E-mails exchanged between respondent/accused and third person are relied by the learned trial Court for disbelieving the case of the original complainant. Hence, this is a fit case to grant leave to file appeal and as such, the order :

- (i) Leave, as prayed, is granted.
- (ii) Application for grant of leave be treated as Memo of Appeal.
- (iii) Admit.
- (iv) Issue notice to respondents returnable **15th September 2017**.
- (v) Call for Record and Proceedings.
- (vi) In the meanwhile, action under Section 390 of the Code of Criminal Procedure, 1973 before the trial Court.

(A.M.BADAR J.)