

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

**CRIMINAL APPEAL NO.110 OF 2013
(For Leave to Appeal – By Private)**

M/s.Lucifer Lights Pvt. Ltd. ... **Applicant**

V/s.

M/s.Lightscape & Ors. ... **Respondents**

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Mr.Rajesh More, Advocate for the Applicant.

Mr.M.J.Jamdar, Advocate for the Respondent Nos.1 to 5.

Mr.A.R.Kapadnis, APP for the Respondent/State.

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CORAM : A. M. BADAR J.

DATED : 17th JANUARY 2017.

P.C . :

1 This is an application for grant of leave to appeal for challenging the Judgment and Order of acquittal of respondent for offences punishable under Section 138 of the Negotiable Instruments Act, 1881 dated 06/02/2012 in Criminal Case No.1559 of 2010 passed by the learned Judicial Magistrate First Class, 18th Court, Pune.

2 Heard the learned counsel appearing for the applicant/original complainant. He vehemently argued that the approach of the learned trial Court in acquitting the respondents is perverse and illegal. There is presumption in favour of the holder

of the cheque and the learned trial Court has failed to consider that aspect.

3 The learned counsel appearing for the respondents supported the impugned Judgment and Order of acquittal.

4 I have carefully considered the rival submissions and perused the material made available. It is seen from evidence on record that the cheque (Exh.29) was issued towards security for purchases that were to be made in future. Thus for securing interest of the party in future transaction, the cheque was issued. The learned Judicial Magistrate First Class while acquitting respondents rightly concluded that the cheque issued towards contingent contract does not come within purview of the provisions of Section 138 of the Negotiable Instruments Act, 1881.

5 In this view of the matter, no case for grant of leave is made out.

The application is rejected.

(A. M. BADAR J.)