

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.228 OF 2016

SANKET DEVELOPERS LTD. COMPANY)...APPLICANT

V/s.

OMPRAKASH BABU SING AND ANR.)...RESPONDENT

Mr.Anand Patil, Advocate for the Applicant.

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

CORAM : A. M. BADAR, J.

DATE : 14th MARCH 2017.

P.C. :

1 This is an application for grant of leave to appeal challenging the judgment and order passed by the learned JMFC, Kolhapur, on 9th May 2016, in Summary Criminal Case No.2570 of 2011 thereby acquitting the respondent / accused of the offence punishable under Section 138 of the Negotiable Instruments Act.

2 Heard learned advocate appearing for the applicant / original complainant. Perused the impugned judgment and order as well as documents placed on record. According to the case of the complainant, hand loan of Rs.3 Lakh was given by him to the respondent in order to meet urgent financial need of the respondent. The respondent in turn had acknowledged the receipt of the amount by scribing an agreement on stamp paper, which was proved before the learned trial court.

3 Perusal of reasoning given in paragraph 34 of the judgment and order shows that the learned trial court has adopted hyper-technical approach by excessive adherence to the rule of benefit of doubt. Case for grant of leave is made out by the applicant / original complainant and therefore the order :

i) Leave, as prayed, is granted.

ii) Admit.

iii) Issue notice to respondents.

iv) Learned APP waives notice for respondent no.2 – State.

- v) Application for leave to appeal be considered as
Memorandum of Appeal.
- vi) Call for Record and Proceedings.
- vii) Action under Section 390 of the Code of Criminal
Procedure before the trial court.

(A. M. BADAR, J.)