

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Application (APPA) No.69 of 2017

(Parvez Ali Shah s/o Nabi Shah .vs. Savita Harihar Chavhan)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Shri V.S. Bapat, Advocate for Applicant.

CORAM : Kum. Indira Jain, J.
DATED : November 15, 2017.

Heard Shri V.S. Bapat, learned counsel for applicant. None for respondent.

By this application under Section 378 (4) of the Code of Criminal Procedure, applicant is seeking special leave to appeal against the judgment and order dated 18.11.2016 passed by the learned Judicial Magistrate First Class, Court No.2, Achalpur in SCC No. 597 of 2012. By the said judgment and order, respondent- accused came to be acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

With the assistance of the learned counsel for applicant, perused the impugned judgment and order, reasons recorded by the trial Court and findings thereon. It appears that the trial Court acquitted the accused on the sole ground of locus standi of the complainant to file the complaint. Complaint has not been decided on merits.

The learned counsel for applicant submits that in cross-examination of the complainant, there is no challenge from the side of accused that he is not the proprietor of Jemini Sewing Machine. It is submitted that in the absence of challenge, trial Court would not have travelled beyond the evidence and would have decided the matter on merits.

After hearing the submissions and on perusal of evidence of complainant as well as the reasons recorded by the trial Court, this Court is of the view that applicant has an arguable case on merits. Hence leave is granted. Criminal Application No.69 of 2017 is allowed.

Criminal Appeal No. ____/2017.

Heard.

Admit.

Call record and proceedings.

Action under Section 390 of the Code of Criminal Procedure.

JUDGE

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