

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.119 OF 2016

(Sau. Vimala Gopaldas Bhutada Vs. Shri Gautam Laxman Dongare and another)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Apurv De, Advocate for Applicant.

CORAM: ROHIT B. DEO, J.
DATE: 26th SEPTEMBER, 2017.

The judgment of conviction is reversed by the Appellate Court and the respondent 1 is acquitted of offence punishable under section 138 of the Negotiable Instruments Act, 1881.

The learned Appellate Court has noted that the husband of the complainant, who was holding a power of attorney, has stepped into the witness box. The learned Appellate Court has drawn an adverse inference against the complainant for not entering into the witness box herself.

The learned Appellate Court has also held that the power of attorney is not proved. The reason given is that since two witnesses had attested the document, one of the two ought to have been examined.

Having given anxious consideration to the reasoning given by the learned Appellate Court, this Court would like to have a second look at the matter. Arguable questions are raised. Hence, leave to appeal under

section 378 (4) of the Code of Criminal Procedure is granted.

The appeal be registered.

Shri Arvind Tikle, the learned counsel waives service of notice for respondent 1.

Shri H.R. Dhumale, the learned Additional Public Prosecutor waives service of notice for respondent 2.

JUDGE