

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

CRIMINAL APPLICATION (APPA) NO.705 OF 2016

IN

CRIMINAL APPEAL NO. OF 2016

(Habib Mechanical Works ..vs.. Smt. Nilima w/o Atulsingh Chauhan)

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

Court's or Judge's orders

None for the appellant,
Shri N.R. Bhishikar, Addl.P.P. for the respondent.

CORAM : ROHIT B. DEO, J.

DATED : 22-08-2017

The applicant seeks leave to challenge the judgment of acquittal by and under which the non-applicant is acquitted of charge under Section 138 of the Negotiable Instruments Act, 1881. The learned Judge is persuaded to hold that since the transaction of purchase of roller was between the accused and one Habib Khan, there was no privity of contract between Habib Mechanical Works, the complainant. Disputed cheque was blank and the name of Habib Mechanical Works was filled, appears to be the undisputed position on record. The only question is whether the learned trial Court is correct in holding that it is not proved that Habib Khan is the proprietor of Habib Mechanical Works.

In this view, it is appropriate that this Court has a second look at the evidence on record.

Leave to appeal is granted.

Let the appeal be registered and listed for final hearing in the week commencing from 30-10-2017.

JUDGE

adgokar