

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

Criminal Application (APPA) 756 of 2016

(Gunwantrao s/o. Vyankatrao Bagade...Vs... Chandrabhan s/o. Somaji Hedau)

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

Court's or Judge's orders.

CORAM : ROHIT B. DEO, J.

DATE : 31.08.2017.

None appears for appellant.
Learned counsel Shri. Khedikar holding for
Uday Dable, appears for respondent.

The respondent accused was
convicted of offence punishable under section
138 read with section 142 of Negotiable
Instruments Act, 1881. The conviction is set
aside by the learned Sessions Judge only on
the ground that the complainant did not prove
that the statutory notice was served.

The learned Sessions Judge has not
appreciated the import and implication of the
law laid down by the Hon'ble Supreme Court

in **C.C. Alavi Haji vs. Palapetty
Muhammed & Another, (2007) 6 SCC 555,**

obviously as the said judgment was not brought to her notice.

This Court feels it necessary to have a second look at the contention of the accused, which is accepted by the learned Sessions Judge that the complainant failed to prove service of statutory notice.

Hence, Criminal Application 756 of 2016 seeking leave to appeal is allowed.

Admit.

Appeal be registered. Record and proceedings be summoned.

In view of the short question of law involved, list the appeal for final disposal in the first week of October, 2017.

For the reasons stated in the application, delay is condoned.

JUDGE