

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 139 OF 2018
IN
STAMP NUMBER MAIN NO. 30 OF 2018

ROMEO D'COSTA., ... Applicant

Versus

STATE OF GOA, THR. THE PUBLIC
PROSECUTOR AND ANR., ... Respondents

Shri Noel Parras D'Cruz, Advocate for the Applicant.

Shri Pravin N. Faldessai, Additional Public Prosecutor for the
Respondent No. 1.

Shri Rohan Desai, Advocate for the Respondent No. 2.

Coram:- C. V. BHADANG, J.

Date:- 12th October 2018

P.C.

This is an application for leave to appeal against acquittal.

2. According to the applicant/complainant, he had advanced an amount of Rs.2,50,000/- to the respondent no. 2/accused, as set out in the document styled as 'Acknowledgment of Debt', executed between the parties. Further, according to the complainant, the respondent no. 2 had passed a cheque for return of the said amount, which got dishonoured, which led the complainant to file a complaint under Section 138 of the Negotiable Instruments Act.

3. The learned Magistrate, by a judgment and order dated 26.10.2017 has acquitted the respondent no. 2. Hence, this application. The learned Magistrate has inter alia held that there is no proof of payment of an amount of Rs.2,50,000/-.

4. A bare perusal of the document 'Acknowledgment of Debt' shows that there are specific cheque numbers mentioned, by which, the applicant had paid a total sum of Rs.2,50,000/-. It is not even the case made out by the respondent no. 2 that any of the cheques, which were issued by the applicant were dishonoured or that he did not receive the consideration thereof.

5. On hearing the learned Counsel for the parties and on considering the overall circumstances, I find that a case for grant of leave to appeal against acquittal is made out. The criminal application is allowed. Let the Criminal Appeal be registered, which shall be treated as Admitted. The learned Magistrate shall take action under Section 390 of Cr.P.C.

C. V. BHADANG, J.

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