

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 263 OF 2017
IN
STAMP NUMBER MAIN NO. 2893 OF 2017

SHEKHAR S. KAREKAR., ... Applicant

Versus

JAVED SHAIKH AND ANR., ... Respondents

Adv. Ashwin D. Bhobe for the Applicant.
Adv. Ganesh R. Naik for Respondent no.1.

Coram:- C. V. BHADANG, J.

Date:- 27th February 2018

P.C.:

Heard Shri Bhobe, the learned counsel for the applicant and Shri Naik, the learned counsel for the respondent.

2. This is an application for Leave to Appeal against acquittal. It is submitted by the learned counsel for the applicant that there was no reply filed by the respondent no.1 to the statutory notice under section 138 of the Negotiable Instruments Act 1881. It is submitted that once the signature on the cheque was not disputed a presumption would arise in favour of the applicant which has not been rebutted. It is pointed out that the learned magistrate has even come to the conclusion that the defence set up by the first respondent that the cheque was misplaced and has been misused

by the applicant is not acceptable.

3. Having heard the learned counsel for the parties and having perused record I find that a case for grant of leave is made out. The application is thus allowed. Let the Criminal Appeal be registered which shall be treated as admitted. Shri Naik waives service on behalf of the respondent no.1.

4. The learned Magistrate shall take action under section 390 of Cr.P.C.

C. V. BHADANG, J.

ap/-