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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 209 OF 2016

Jitendra Dnyanadev Patil

..Applicant

Vs

Anil Shankar Gharal & Anr.

..Respondents

Ms. Bhakti Bhosale, for applicant.

Mr. Kalpesh Patil for Respondent No.1.

Mr. V.V. Gangurde, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 27th FEBRUARY 2018.

P.C.:

1] This is an application under Section 378 (4) of the Cr. P.C. thereby seeking leave to file an appeal against the Judgment and Order dated 19th November 2013 passed by the Judicial Magistrate First Class, Karad in Summary Criminal Case No.1408 of 2009, thereby the respondent No.1 has been acquitted of the offence punishable under Section 138 of the Negotiable Instruments Act.

2] Heard the learned Counsel for the respective parties. Perused the record.

3] The record clearly indicates that, the respondent No.1 has successfully rebutted the presumption available under Section 139 of the Negotiable Instruments Act and the applicant being the complainant has failed to prove that the cheque in dispute was issued by the respondent No.1 towards lawful liability or debt arising out of the transaction in question. The contention of the applicant is that, he advanced a hand-loan of Rs.60,000/- to the respondent No.1, has not been proved by leading legal admissible evidence at the time of trial.

4] After perusing the record, this Court is of the opinion that the view adopted by the Trial Court is a probable view in the facts and circumstances of the present case. No case for leave to file appeal is made out.

Application is accordingly rejected.

(A.S.GADKARI, J.)