

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 259 OF 2015
Kedarnath Sugar and Agro Products Ltd. vs. Midde Samba Siva
Rao.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.S.Patwardhan for the Applicant.

Mr.Chetan Patil for Respondent No.1.

Ms. R.M.Gadhavi, APP for the State.

CORAM :A.S.GADKARI, J.

DATE : 15th March, 2018

P.C.

1. This is an application under Section 378(4) of the Cr.PC. seeking leave to file appeal against the Judgment and Order dated 27.3.2015 passed by the Judicial Magistrate First Class, Court No.6, Kolhapur in SCC No.2913/2012 thereby acquitting the respondent No.1 for the offence punishable under Section-138 of the Negotiable Instruments Act.

2. Heard the learned counsel for the applicant and the learned counsel for respondent No.1 and perused the entire record.

3. The record indicates that the negotiable instrument in question i.e. cheque in question is dated 23/0/20123. The said cheque was accepted by the applicant towards the security

amount for fulfillment of the contract. That, without seeking prior permission of the respondent, the applicant deposited the said cheque which came to be dishonoured on the ground that the said negotiable instrument was a void instrument. The complainant in his cross examination has admitted the said fact and has stated that the oblique mark put between 0 and 12 was treated as "01" and the said cheque was therefore deposited for its encashment. Thus, it is clear from the record that, a void negotiable instrument was presented for encashment/realization which has been dishonoured. The defence adopted by respondent No.1 is that, the said cheque was deposited with the applicant as security for fulfillment of the contract has substance in it.

4. After perusing the record, this Court is of the opinion that the view adopted by the Trial Court is a reasonable and probable view in the facts and circumstances of the present case.

5. No case for grant of leave is made out.

6. Application is accordingly rejected.

(A.S.GADKARI, J.)