

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 92 OF 2017**

The State of Maharashtra

....Applicant.

Vs.

Nitin Chandrakant Gupte

....Respondent.

Mr. V.V. Gangurde, APP for the Applicant.

None for the Respondent.

CORAM : A. S. GADKARI, J.

DATE : 13th MARCH, 2018.

P.C.:-

This is an Application under Section 378 (3) of the Cr.P.C. for leave to file Appeal against the Judgment and Order dated 19th April, 2017 passed by the learned Additional Sessions Judge, Malshiras in Special Case No. 4 of 2014, thereby acquitting the Respondent/Original Accused No.1 from the offences punishable under Sections 420, 406 and 409 read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2 Heard the learned APP and perused the record.

3 The evidence on record clearly indicates that the Applicant

was the employee of “Aryarup Tourism and Club Resort Private Limited”, Bandra Mumbai and did not take part in either accepting or investing the amount of the said company. It is the other accused persons who have been attributed with the role of acceptance/investment and defalcation of the amount involved in the present crime. The record indicates that, the Police till date, did not take steps to arrest the other prime accused persons and the trial of the Applicant proceeded after separating it from rest of the Accused persons. The perusal of the record further indicates that, the prosecution has clearly failed to prove the guilt of the Respondent beyond reasonable doubt by adducing cogent and sufficient evidence in that behalf.

4 After perusing the entire 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.

No case for grant of leave to file Appeal is made out.

5 Application is accordingly rejected.

(A.S. GADKARI, J.)