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

CRIMINAL APPLICATION NO. 436 OF 2015

Rajat Glass House

..Applicant

Vs

Mahalakshmi Glass House & Anr.

..Respondents

Mr. V.R. Gaikwad for applicant.

Mr. Sachin Hande for respondent No.1.

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

CORAM : A.S.GADKARI, J.

DATE : 20th APRIL 2018.

P.C.:

1] This is an application under Section 378 (4) of Cr. P.C. for leave to file an appeal against the Judgment and Order dated 13th May 2015 passed by the Judicial Magistrate First Class, Karad, District Satara in Summary Criminal Case No.1539 of 2011, thereby acquitting the respondent No.1 from the offence punishable under Section 138 of the Negotiable Instruments Act.

2] Heard the learned Counsel for the applicant. Perused the record.

3] It is the case of the applicant that, he sold and supplied goods to the respondent No.1 and towards its part payment the respondent No.1 issued a cheque in question which was dishonoured on presentation. The evidence on record indicates that, the complaint before the Trial Court was filed by Shri Anil Mutha a power of attorney holder of the applicant-firm. The said power of attorney was not produced before the Trial Court and therefore it was difficult to believe that the said Anil Mutha in fact was authorised to file the complaint and to lead evidence in that behalf.

4] The record further indicates that the applicant has failed to produce any document on record thereby even remote inference can be drawn that, it in fact supplied the goods to the respondent No.1 and towards the said lawful liability, the respondent No.1 had issued the cheque to the applicant. The record indicates that, the applicant did not produce any delivery challan/bill before the Trial Court. The respondent No.1 is successful in rebutting the presumption under Section 139 of the Negotiable Instruments Act by adopting its defence that the said cheque was given to the applicant towards security and the same has been misused by the applicant. I find substance in the defence of the respondent No.1.

5] 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.

6] Application is accordingly rejected.

(A.S.GADKARI, J.)