

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3 OF 2016
IN
CRIMINAL APPEAL NO. _____ OF 2016

Salil Kumar Das

Applicant

versus

Bikas Ranjan Manna and another

Respondents

Ms.Pranali P. Kakade for applicant.

Mrs.M.R.Tidke, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 23rd January 2018

PC :

1. This is an application seeking leave to appeal against the judgment and order of acquittal dated 19th September 2015 passed by 2nd Joint Judicial Magistrate, First Class, Vashi in Regular Criminal Case No.986 of 2012. The applicant is original complainant. The complaint was filed alleging offence under Sections 418 and 420 of Indian Penal Code. The case of the complainant is that in spite of making entire payment, the flat premises were not allotted to him. It is submitted that the Trial Court has proceeded on the basis that the dispute is of civil nature and breach of promise and that the civil suit is pending. It is submitted that merely because the civil suit is pending, it cannot be said that penal offence is not made out, more particularly when the applicant has made the entire payment to the accused.

2. Arguable questions are raised and leave is required to be granted to file an appeal against the order of acquittal. Hence, I pass following order :

ORDER

- (i) Leave to file appeal against the judgment and order dated 19th September 2015 passed by 2nd Joint Judicial Magistrate, First Class, Vashi in Regular Criminal Case No.986 of 2012 is granted;
- (ii) Appeal is admitted;
- (iii) Call for record and proceedings.

(PRAKASH D. NAIK, J.)

MST