

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.25 OF 2015

WITH

CRIMINAL APPLICATION NO.24 OF 2015

**PRAVIN TEXTORIUM AND FASHION PVT.)
LTD.)...APPLICANT**

V/s.

M/S.GANESH TRADING CO. AND ANR.)...RESPONDENTS

Mr.S.V.Sadavarte, Advocate for the Applicant.

Ms.Gauri Godse a/w. Mr.Rohit Joshi, Advocate for Respondent No.1.

Mrs.M.R.Tidke, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 3rd OCTOBER 2018

P.C. :

1 Heard both sides. Perused the impugned judgment and order of acquittal of the respondent/accused of the offence punishable under Section 138 of the Negotiable Instruments Act.

2 Undisputedly, no evidence was adduced by the respondent/accused before the learned trial court. The learned trial court has lost legal position regarding presumption in favour of the complainant in such offences. Prima facie, there is no evidence by which it can be stated that the accused has rebutted presumption by preponderance of probabilities. In this view of the matter, case for consideration is made out. Therefore, the order :

ORDER

- i) Leave as prayed is granted.
- ii) Memo of Application for leave to appeal be treated as Memo of Appeal on effecting necessary amendments thereto.
- iii) Leave to amend is granted.
- iv) Admit.
- v) Issue notice to respondents.
- vi) Learned counsel Ms.Gauri Godse waives notice for respondent No.1.
- vii) The learned APP waives notice for respondent no.2/State.
- viii) Call for Record and Proceedings.

(A. M. BADAR, J.)

**Arti Vilas
Khatate**

Digitally signed by Arti
Vilas Khatate
Date: 2018.10.04
11:54:18 +0530