

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 44 OF 2018

M/s. Akbar Express Cargo Pvt. Ltd. ...Applicant.

vs.

Mr. Mukesh H.Gupta and anr. ...Respondents.

|                                                                                                                  |                           |
|------------------------------------------------------------------------------------------------------------------|---------------------------|
| Office Notes, Office Memorandum of<br>Coram, appearances, Court's orders<br>or directions and Registrar's orders | Court's or Judge's orders |
|------------------------------------------------------------------------------------------------------------------|---------------------------|

Mr. K.V. Sarafdeen for the Applicant.

Mrs. V.S. Mhaispurkar, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 26th February, 2018

P.C.

1. This is an application seeking leave to file appeal under Section 378(4) of the Code of Criminal Procedure against the Judgment and Order dated 11.10.2017 passed by the Metropolitan Magistrate, 6<sup>th</sup> Court, Mazgaon, Mumbai in CC No.238/SS/2011.

2. The applicant was a proprietary concern when it lodged the aforesaid complaint on 9.4.2011. The applicant had given power of attorney to Mr. Santosh D. Mayekar to lodge the complaint and lead evidence on its

behalf.

The Trial Court has observed that the witness of the applicant had no knowledge of any of the transactions mentioned in the complaint. The Power of Attorney holder i.e. witness of the applicant was not decisive as to the knowledge of himself about the transaction mentioned in the complaint and has failed to make out any case before the Trial Court. That, the applicant has failed to make out any case in the Trial Court and therefore, the Trial Court was pleased to record a finding of acquittal against the respondent.

3. After perusing the record, this Court is of the opinion that the view adopted by the Trial Court is a probable view in the facts and circumstances of the present case. That, the Trial Court has not committed any error either in law or facts in the impugned Judgment and Order. The application being dehors of any merits is accordingly rejected.

(A.S.GADKARI, J.)