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

CRIMINAL APPLICATION NO. 47 OF 2018

Mustanseer A Calcutawala

..Applicant

Vs

Krishna M. Poojari & Anr

..Respondents

Mr. Kezer Kharawala i/b Lex Juris for applicant.

Ms. V.S. Mhaispurkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 27th FEBRUARY 2018.

P.C.:

1] This is an application under Section 378 (4) of the Cr. P.C. thereby seeking leave to file an appeal against the Judgment and Order dated 9th November 2017 passed by the Judicial Magistrate First Class, Vashi at Belapur in Summary Criminal Case No.1265 of 2016.

2] The applicant is the original complainant in the said case filed under Section 138 of the Negotiable Instruments Act. The record indicates that, the applicant has miserably failed to prove the basic fact and tenet of law that he is the proprietor of the firm in whose name the respondent No.1/accused issued the cheque in dispute. It appears from record that when the Advocate for the applicant conducted the trial, did not advise the

applicant in that behalf and after a full-fledge trial, the Trial Court has acquitted the respondent No.1 for the aforesated reason.

3] After perusing the record, this Court is of the considered view that the applicant has miserably failed to prove the basic fact and tenet of law that he is the proprietor of the firm in whose name the respondent No.1/accused had issued a cheque. That the view adopted by the Trial Court is a probable view in the facts and and circumstances of the present case. After perusing the record, this Court is of the opinion that there is no error either in law or on facts committed by the Trial Court in the impugned Order.

Application is accordingly rejected.

(A.S.GADKARI, J.)