

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 63 OF 2016**

M/s. Arihant Computers

....Applicant.

Vs.

M/s. Ganesh Computer Services & Anr.

....Respondents.

Mr. D.J. Dalal for the Applicant.

Mr. V.B. Tapkir for Respondent No.1.

Mr. A.R. Kapadnis, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 24th APRIL, 2018.

P.C.:-

This is an Application under Section 378 (4) of Cr.P.C. for leave to file Appeal against the Judgment and Order dated 4th January 2016, passed in Summary Criminal Case No. 8494 of 2014 by the Judicial Magistrate, First Class, Pune thereby acquitting the Respondent No.1 from the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2 Heard the learned counsel for the Applicant, the learned counsel appearing for the Respondent No.1 and the learned APP for the Respondent-State. Perused the record.

3 It is the case of the Applicant that he supplied goods

(computer accessories and peripherals) to the Respondent No.1 amounting to Rs.6,13,865/- between 20th November 2013 to 16th January, 2014 and raised invoices in that behalf. That, the Respondent No.1 towards part payment of the said liability, had issued the cheque in question for a sum of Rs.5,47,000/- which has been dishonoured on presentation.

4 The evidence on record indicates that during the period from 20th November 2013 to 16th January 2014, the Respondent No.1 had paid a sum of Rs.5,56,480/- by way of NEFT to the Applicant. The said fact has been duly proved by leading sufficient and cogent evidence, by the Respondent No.1. Thus, there is no question of issuing a cheque of Rs.5,47,000/- to the Applicant by the Respondent No.1 after payment of Rs.5,56,480/-. It is the specific defence of the Respondent No.1 that, a duly signed blank cheque was kept as security with the Applicant thereby, giving him assurance of completion of contract and even after making of payment of Rs.5,56,480/-, the Applicant has misused the said cheque and the present case is thereupon filed. I find substance in the defence of the Respondent No.1.

5 After perusing the 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.)