

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

CRIMINAL APPLICATION NO.52 OF 2018

Shri. Sanjay Baban Bharit

... Applicant

V/s.

Shri. Rajendra dinkar Rote & Anr.

... Respondents

Mr. D.S. Pagare for the Applicant.

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

CORAM : A.S.GADKARI, J.

DATE : 28th MARCH 2018

P.C.:

1. This is an application under Section 378(4) of Cr.P.C. for leave to file appeal against the Judgment and Order dated 15.01.2018 passed by the learned Judicial Magistrate First Class, Nashik in Criminal Summary Case No.5112/2015, thereby acquitting the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. Heard the learned counsel for the Applicant and perused the record.

The evidence on record clearly reveals that, the applicant has failed to prove the basic fact that, the respondent had issued the

cheque-in-question towards any legally enforceable debt and liability. No document is produced on record to substantiate the claim of the applicant. The record further indicates that, the applicant and Respondent No.1 were having cordial relations and as a matter of fact, Respondent No.1 had helped the applicant in getting loan from a Bank and had also given a cheque to the applicant towards security for getting the said loan. It is the categorical defence of Respondent No.1 that, the applicant has misused the said cheque and has instituted the present complaint. I find substance in the defence of Respondent No.1.

3. After perusing the entire 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.

4. Application is accordingly rejected.

(A.S.GADKARI, J.)