

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.134 OF 2017

(For Leave to Appeal – Private)

Shri.Avinash Gulabrao Awate	...	Applicant
V/s.		
Dr.Manisha Madhukar Kulkarni & Ors.	...	Respondents

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Mr.Vasant D. Raut, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 6th AUGUST 2018.

P.C. :

1 None for the respondents/original accused.

2 Heard the learned Advocate appearing for the applicant/original complainant. Perused the impugned Judgment and Order of acquittal of the respondents/accused of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. It appears that the learned trial Court has not properly considered the effect of presumption as envisaged by Section 139 of the Negotiable Instruments Act, 1881. Case for consideration is made out. Hence, the Order :

ORDER

- (i) Leave, as prayed, is granted.
- (ii) The Memo of Application for leave to appeal be considered as Memo of Appeal on effecting necessary amendment. Leave to amend to that effect is granted.
- (iii) Admit.
- (iv) Issue notice to respondents.
- (v) The learned Additional Public Prosecutor wavier notice for the respondent No.3/State.
- (vi) Call for Record and Proceedings.
- (vii) In the meanwhile, action under Section 390 of the Code of Criminal Procedure before the learned trial Court.

(A.M.BADAR J.)

Raju
Dattatraya
Gaikwad

Digitally signed by
Raju Dattatraya
Gaikwad
Date: 2018.08.07
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