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

CRIMINAL APPLICATION NO. 357 OF 2012

Pradeep Babasaheb Ghule

..Applicant

Vs

M/s Konark Real Tech Pvt.Ltd. & Ors.

..Respondents

Mr. Prosper D'Souza a/w Rajendra Anbhule for applicant.

Ms. S.D. Khot a/w Ameeta Kuttikrishnan for respondent Nos.1 to 3.

Mr. S.S. Hulke, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 28th August 2018.

P.C.:

1] This is an application for leave to file appeal under section 378(4) of Cr. P.C against the Judgment and Order dated 17th November 2011 passed by the learned 19th Joint Judicial Magistrate First Class, Pune in Case No.CC/32492/2008, thereby acquitting the respondent Nos.2 and 3 from the offence punishable under section 138 of the Negotiable Instruments Act.

2] Heard Mr. D'Souza, the learned counsel for the applicant, Ms. Khot, the learned counsel for respondent Nos.1 to 3 and the learned APP. Perused the record.

3] It is the case of the complainant that, towards part payment of the work executed by him, the respondents issued a cheque of Rs.12.00 lakhs to him which came to be dishonoured on its presentation. The learned Trial Court by the impugned Judgment and Order dated 17.11.2011 was pleased to acquit the respondent Nos.2 and 3 from the charges framed against them.

4] Perusal of the evidence on record would indicate that, the respondent Nos.2 and 3 are successful in rebutting the presumption under section 139 of the Negotiable Instruments Act. The evidence further indicates that, the applicant has failed to prove any lawful liability or debt of the respondents as of 12.10.2010 for issuance of the said cheque in question by leading cogent evidence and beyond reasonable doubt.

5] In view thereof, no case for grant of leave to file appeal is made out.

Application is accordingly rejected.

(A.S.GADKARI, J.)

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