

Nalawade

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 88 OF 2018

The Hindustan Co-op. Bank Ltd. ..Applicant.
vs.
Shri. Dadasaheb K. Kadam and anr. ..Respondents.

Mr.V.C.Ghosalkar for the Applicant.
Mr.A.R.Kapadnis, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.
DATE : 27th March, 2018

P.C.

1. This is an application under Section 378(4) of the Cr.PC. for leave to file appeal against the Judgment and Order dated 15.1.2018 passed by the learned Metropolitan Magistrate 6th Court, Mazgaon, Mumbai in CC No. 1520/SS/2010 thereby acquitting the respondents for the offence punishable under Section-138 Negotiable Instruments Act.

2. Heard Shri. Ghosalkar, the learned counsel appearing for the applicant and the learned APP. Perused the record.

3. The evidence on record clearly indicates that the applicant has failed to establish the basic fact that the respondent No.1 was liable to pay any legally enforceable debt or liability to it. It is the case of the complainant that such an amount was advanced as loan to the family members and/or

well wishers of respondent No.1 and towards the repayment of the same the respondent No.1 had taken responsibility to repay the same and in pursuance of the letter dated 31.1.1999 gave one blank cheque to the applicant bank which has been dishonored. The applicant bank has failed to bring on record any letter or notice thereby indicting the fact that before depositing the said cheque which was subsequently filled in by the bank and intimation of the same was given to respondent No.1 which would make him legally responsible for its dishonour. The acceptance of a blank cheque by the applicant bank itself is sufficient reason to create doubt about its bonafide about the alleged transaction in question.

4. 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.

5. Application is accordingly rejected.

(A.S.GADKARI, J.)