

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 104 OF 2018

Shri Pandurang Baburao LateApplicant.

Vs.

Shri Vishnu Mahadeo Nagargoje & Anr.Respondents.

Mr. Manoj Patil for the Applicant.

Ms. R.M. Gadhvi, APP for the Respondents.

CORAM : A. S. GADKARI, J.

DATE : 20th MARCH, 2018.

P.C.:-

This is an Application under Section 378 (4) of the Cr.P.C. for leave to file Appeal against the Judgment and Order dated 2nd December, 2014, passed by the learned Judicial Magistrate, First Class, Miraj, in SCC No. 74 of 2012 thereby, acquitting Respondent No.1 for the offences punishable under Section 138 of the Negotiable Instruments Act.

2 Heard Mr. Patil, the learned counsel appearing for the Applicant, at length and perused the record.

3 The evidence on record clearly indicates that the Applicant has failed to adduce sufficient and cogent evidence thereby proving

the fact beyond the reasonable doubt that, he in fact had advanced hand-loan of Rs.50,000/- to the Respondents. The evidence further indicates that, as a matter of fact, the Respondent was in good financial condition and was not in need of money. The Applicant in his cross-examination has admitted the fact that, the financial condition of the Respondent was quite good and there was no need for him to seek hand-loan from the Applicant. The Respondent is successful in rebutting the presumption under Section 138 of the Negotiable Instruments Act.

4 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.

5 Application is accordingly rejected.

(A.S. GADKARI, J.)