

Nalawade

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 116 OF 2018

Sushilkumar P. Mutha. ...Applicant.
vs.
The State of Maharashtra and anr. ...Respondents.

Mr. M.G.Shukla i/by R.C.Shikla for the applicant.
Mr. V.V.Gangurde, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.
DATE : 21st March, 2018

P.C.

1. This is an application under Section 378(4) of the Cr.P.C. seeking leave to file appeal against the Judgment and Order dated 29.3.2016 passed by the learned 26th Judicial Magistrate First, Pune in SCC No.13726/2014 thereby acquitting respondent No.2 for an offence punishable under Section 138 of the Negotiable Instruments Act.
2. Heard the learned counsel for the applicant and the learned APP. Perused the record.
3. The evidence on record reveals that the applicant has failed to prove the basic fact that, he in fact had advanced hand loan to respondent No.2 and towards its repayment the respondent No.2 had issued the cheque in question. The record

further indicates that respondent No.2 was successful in rebutting the presumption as contemplated under Section 139 of the Negotiable Instruments Act thereby substantiating the fact that the cheque in question was not issued towards the lawful liability or debt.

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 is made out.

5. Application is accordingly rejected.

(A.S.GADKARI, J.)