

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

CRIMINAL APPLICATION NO.121 OF 2018

Mr. Rakesh Nagindas Mehta

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. M.G. Shukla for the Applicant.

Ms. V.S. Mhaispurkar, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 22nd MARCH 2018

P.C.:

1. This is an application under Section 378(4) of Cr.P.C. for leave to file appeal against the Judgment and Order dated 29.02.2016 passed in C.C.No.5901561/SS/2015 by the learned Metropolitan Magistrate, 59th Court, Kurla, Mumbai, thereby acquitting Respondent Nos.2 to 5 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

2. Heard the learned counsel for the applicant and the learned APP. Perused the record.

3. The evidence on record clearly indicates that, the cheque-in-

question was drawn by Everest Photo Offset Ltd. in favour of the applicant and the respondents were the signatories to the said cheque. However, while filing the complaint, the applicant did not arraign the said Company as a necessary party/accused.

4. The evidence on record further indicates that, no specific role has been attributed to each of the respondents about their functioning in the said company. The applicant has further failed to prove the factum of issuance of cheque by any particular accused.

The Trial Court after taking into consideration the said aspect was pleased to acquit the respondents by the impugned judgment and order.

5. 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 is made out for grant of leave to file appeal.

6. Application is accordingly rejected.

(A.S.GADKARI, J.)