

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

CRIMINAL APPLICATION NO. 141 OF 2018

Sanjay Dhanraj Kataria	... Applicant
Vs.	
Bhupendra Jageevandas Parekh & Anr.	... Respondents

Mr. Uday Nighot for the Applicant.
Ms. V.S. Mhaispurkar APP for State.

CORAM : A.S. GADKARI, J.
DATE : 4th APRIL, 2018.

P.C.

1. This is an application under Section 378(4) of the Code of Criminal Procedure, 1973 for leave to file appeal against the judgment and order dated 19.07.2017 passed by the learned 22nd Judicial Magistrate First Class, Pune, at Shivajinagar, Pune, in Summary Criminal Case No. 0410670 of 2013, thereby acquitting the respondent for the offence punishable under Section 138 of Negotiable Instrument Act.
2. Heard learned counsel for the applicant and perused the record.
3. The evidence on record clearly reveals that the applicant has failed to prove the basic fact that, he infact had advanced loan to Respondent No.1 by, producing cogent and reliable evidence in that behalf. The applicant has failed to bring on record any document such as Income Tax Return, Bank Pass Book, Promissory Note or an

agreement of hand loan from which it can be even remotely inferred that, the applicant had infact advanced a hand loan in cash to the Respondent to substantiate his claim. The evidence on record further clearly reveals that Respondent is successful in rebutting the presumption as contemplated under Section 139 of Negotiable Instrument Act.

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.)