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

CRIMINAL APPLICATION NO. 138 OF 2016

Shri Rajkumar Maheshchandra Bansal

..Applicant

Vs

Shri Radheshyam Motilal Agarwal & Anr.

..Respondents

Mr. Akshay A. Kulkarni for applicant.

Mrs. V.S. Mhispurkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 2nd APRIL 2018.

P.C.:

1] This is an application under Section 378 (4) of Cr. P.C. seeking leave to file an appeal against the Judgment and Order dated 1st February 2016 passed by the Judicial Magistrate First Class, Miraj in Summary Criminal Case No.122 of 2015, thereby acquitting the respondent No.1 for the offence punishable under Section 138 of the Negotiable Instruments Act.

2] Heard the learned Counsel for the applicant. Perused the record.

3] It is the case of the applicant that, he supplied the goods namely 'Bangles' to the tune of Rs.7,05,000/- to the respondent No.1 and in discharge of part liability, the respondent No.1 issued two cheques of

Rs.1,00,000/- each which have been dishonoured on its presentation.

4] The evidence on record indicates that, the applicant in his complaint before the Police in June 2014 had stated that the respondent No.1 obtained hand loan of Rs.7,05,000/- from him and his friend Vishal Athwale and the said cheques in disputes were drawn in favour of the applicant towards its repayment. The evidence on record clearly indicates that, the applicant has failed to substantiate his own case that he in fact supplied goods (bangles) amounting to Rs.7,05,000/- to the respondent No.1 by adducing sufficient and cogent evidence in that behalf.

5] The perusal of the record further indicates that, the respondent No.1 was successful in rebutting the presumption as contemplated under Section 139 of the Negotiable Instruments Act that there is no legally enforceable liability or debt against the him to be paid to the applicant.

6] After perusing the entire record, this Court is of the 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.

7] No case for grant of leave to file appeal is made out.

Application is accordingly rejected.

(A.S.GADKARI, J.)