

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.186 OF 2015
WITH
CRIMINAL APPLICATION NO.187 OF 2015
WITH
CRIMINAL APPLICATION NO.188 OF 2015**

SUNANDA MANIKRAO THORAT)...APPLICANT

V/s.

BALASAHEB SAYAJI THOMBARE & ANR.)...RESPONDENTS

Mr.A.B.Tajane, Advocate for the Applicant.

Mr.S.D.Shinde, Advocate for Respondent No.1.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 3rd JULY 2018

P.C. :

1 Heard both sides. Perused the impugned judgments and orders acquitting the respondent/original accused of the offence punishable under Section 138 of the Negotiable Instruments Act.

2 Prima facie it appears that cheques were issued for discharge of legally enforceable debt, as reflected in the Memorandum of Understanding. The contention of the respondent/accused is to the effect that for encashing the cheques, original share certificates ought to have been returned by the complainant, but the same has not been done.

3 Be that as it may, as Memorandum of Understanding is prima facie reflecting legally enforceable debt, the matter needs consideration. Even otherwise, similar three matters are reported to be admitted by granting leave. Hence, the order :

ORDER

- i) Leave, as prayed, is granted.
- ii) Memorandum of Application be treated as Memorandum of Appeal by effecting necessary amendment.
- iii) Leave to amend, to that extent, is granted.
- iv) Admit.
- v) Issue notice to respondents.

- vi) Learned Advocate Mr.S.D.Shinde appears for contesting respondent no.1.
- vii) Learned APP waives notice for respondent no.2/State.
- viii) In the meanwhile, call for Record and Proceedings.
- ix) In lieu of action under Section 390 of the Code of Criminal Procedure, the respondent no.1 to execute P.R.Bond in the sum of Rs.15,000/- before the learned trial court within five weeks from today.
- x) To be placed along with Criminal Appeal Nos.871 of 2017, 872 of 2017 and 873 of 2017.

(A. M. BADAR, J.)