

Nalawade

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 105 OF 2018

Shri.Anil Pandurang Khot ...Applicant.
vs.
Ravindranath V. Khot and ors. ...Respondents.

Mr. Ganesh Patil for the Applicant.
Mr. A.R.Kapadnis, APP. for the 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 19.10.2015 passed by the learned Judicial Magistrate First Class. Dapoli in C.C.No.94/2012 thereby acquitting respondent No.1 for an offence punishable under Section138 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/complainant has clearly failed to establish the basic fact that he had in fact advanced hand loan of Rs.8,60,000/- to respondent No.1 by adducing sufficient and cogent

documentary evidence. Except bare words of the applicant, there is no evidence on record to even infer that the applicant had in fact advanced any hand loan to respondent No.1 and towards the repayment of the said hand loan the respondent No.1 had issued the said cheque in question to the applicant which was dishonoured. The evidence on record further clearly indicates that the wife of the applicant is the sister of respondent No.1 and respondent No.1 had in fact given two blank cheques to his sister towards security, as she was residing separately and the said cheques have been misused by the applicant by exerting pressure on his wife i.e. sister of respondent No.1. The cheque book produced by respondent No.1 which is at Exhibit -36 clearly reveals that in the counter foil slip, the name of "Hema Tai" i.e. complainant's wife is mentioned. It is the categorical defence of respondent No.1 that the applicant by taking undue advantage of the close relationship between the parties inter se has misused the said cheques. Perusal of record would indicate that there is substance in the defence taken by respondent No.1.

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 circumstance of the present case.

No case for grant of leave is made out.

5. Application is accordingly rejected.

(A.S.GADKARI, J.)