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

CRIMINAL APPLICATION NO. 234 OF 2013

Bell Finvest (I) Ltd.

..Applicant

Vs

The State of Maharashtra & Ors.

..Respondents

Mr. Pravin Warpe for applicant.

Mr. A.R. Kapdnis, 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 5th January 2013 passed by the Metropolitan Magistrate, 28th Court, Esplande, Mumbai in C.C. No.112/SS/2007, thereby acquitting the respondent Nos.2 and 3 for the offence punishable under Section 138 of the Negotiable Instruments Act.

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

3] The evidence on record clearly reveals that, the representative of the applicant who had filed the complaint namely, Shri Santosh More did

not even enter into witness-box to prove the contents of the complaint and the documents relied upon by it. He also did not produce document authorising him to lead the evidence. The record further indicates that, the applicant has failed to prove the basic fact that there is any transaction between parties inter-se arising out of which the respondent No.2 issued the said cheque in question towards the legally enforceable liability or debt.

The perusal of the record further indicates that, the respondents were successful in rebutting the presumption as contemplated under Section 139 of the Negotiable Instruments Act.

4] 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.

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

Application is accordingly rejected.

(A.S.GADKARI, J.)