

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.195 OF 2016

Sampat Shankar More vs. |Shivasen S. Dive and anr.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Prashant Patil for the Applicant.

Mr.V. V. Gangurde,APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 26th February, 2018

P.C.

1. This is an application seeking leave to file appeal under Section 378(4) of the Code of Criminal Procedure against the Judgment and Order dated 11.3.2016 passed by the Judicial Magistrate First Class, 3rd Court Nashik in Summary Case No.586 of 2012.

2. The applicant is the complainant in the said complaint filed under Section 138 of the Negotiable Instruments Act. The Trial Court after recording the evidence and after hearing to the parties was pleased to dismiss the complaint on the ground that there is no

evidence on record to infer that the applicant had in fact advanced any loan to the respondent and the respondent is successful in rebutting the presumption under the law.

3. After perusing the record, it is noticed that the applicant has failed to prove beyond reasonable doubt that, for which security the alleged negotiable instrument was given to him, towards the alleged lawful liability or towards the repayment of loan. The view adopted by the Trial Court is a probable view in facts and circumstances of the present case.

In view thereof, no case for grant of leave is made out.

4. Application is accordingly rejected.

(A.S.GADKARI, J.)