

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

CRIMINAL APPLICATION NO.233 OF 2017

Sandeep Mahadev Kadam ... Applicant
V/s.
Jalandar Anandrao Kanase and anr. ... Respondents

Mr.Vinod Sangvikar for the Applicant.
Mr.Vasant A. Prabhu h/f Mr. Mazgaonkar for Respondent No.1.
Mr.A.R.Kapadnis, APP for Respondent No.2-State.

**CORAM : A.S.GADKARI, J.
DATE : APRIL 17, 2018.**

P.C.:

1. This is application under Section 378(4) of Cr.P.C. for leave to file appeal against the Judgment and Order dated 17th May 2017, passed by the Ld. Metropolitan Magistrate, 7th Court, Dadar, Mumbai in CC No.913/SS/2015, thereby acquitting Respondent No.1 from the offence punishable under Section 138 of the Negotiable Instruments Act.
2. Heard the learned counsel for the Applicant and Respondent No.1. Perused the record.
3. The evidence on record clearly reveals the fact that the Applicant has not produced any document on record such as promissory note, bank transfer, IT return, thereby it can be even

remotely inferred that Applicant had advanced hand loan of Rs.3,00,000/- to Respondent No.1. It is the specific defence of the Respondent No.1 that, he has already repaid a sum of Rs.1,50,000/- to the complainant by way of cheque, which has been encashed.

As the applicant has failed to prove the basic fact that he infact had advanced hand loan to Respondent No.1, I find no substance in the contention of the Applicant.

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.

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

5. Application is accordingly rejected.

(A.S.GADKARI, J.)

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