

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 236 OF 2017**

Smt. Sunita Dilip Deshmukh

....Applicant.

Vs.

Shri Dattu Punja Jopale & Anr.

....Respondents.

Mr. R.N. Gite for the Applicant.

Mr. P.D. Patil, for the Respondent No.1.

Mr. Rajan Salvi, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 19th APRIL, 2018.

P.C.:-

This is an Application under Section 378 (4) of Cr. PC. for leave to file Appeal against the Judgment and Order dated 6th May, 2017, passed by the learned Judicial Magistrate, First Class, 7th Court, Nashik in S.C.C. No.3986/2013, thereby acquitting the Respondent No.1 from the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

2 Heard the learned counsel for the Applicant, the learned counsel for the Respondent No.1 and the learned APP. Perused the record.

3 The evidence on record clearly indicates that, the

Applicant has failed to prove the basic fact of advancing hand-loan to the Respondent No.1 by adducing sufficient and cogent evidence, such as producing Promissory Note, Agreement, Bank Statement and/or Income Tax Return thereby, even it can be remotely inferred that, the Applicant had in fact, advanced hand-loan to the Respondent No.1.

It is the categorical defence of the Respondent No.1 that, for a separate and distinct transaction of sale of landed property, the Respondent No.1 had given the blank cheques in question to the Applicant towards the security, which had been misused by the Applicant and in furtherance thereto, the present case is lodged.

I find substance in the defence of the Respondent No.1.

6 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.

7 Application is accordingly rejected.

(A.S. GADKARI, J.)