

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.283 OF 2015
IN
CRIMINAL CASE NO.5351/SS/2012

The Be-Jod Co-op. Credit Society Limited	Applicant
versus	
Shivprasad Bansilal Vaishya and another	Respondents

Mr.Shivkumar R. Gupta for applicant.
Mr.M.G.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 9th January 2018

PC :

1. This is an application seeking leave to file an appeal against the judgment and order dated 9th July 2013 passed by learned Metropolitan Magistrate, 69th Court, Mazgaon, Mumbai wherein the respondent no.1-accused has been acquitted.

2. The applicant is the original complainant who had filed a complaint under Section 138 of Negotiable Instruments Act. The accused has been acquitted primarily on the ground that the impugned cheque was issued by way of security. The learned advocate for the applicant submitted that except bald statements, there was nothing on record to indicate that the cheque was issued by way of security. It is submitted that the Trial Court has drawn an inference on the basis of the fact that there was difference in the signature of the accused and other contents of the cheque.

3. Arguable questions are raised by the advocate for applicant, which requires that leave has to be granted. Hence, I pass following order :

ORDER

(a) Leave to file appeal challenging the judgment and order dated 9th July 2013 passed by the learned Metropolitan Magistrate, 69th Court, Mazgaon, Mumbai in CC No.5351/SS/2012 is granted;

(b) Appeal stands admitted.

(PRAKASH D. NAIK, J.)

MST