

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

CRIMINAL APPLICATION NO. 275 OF 2014

Shri. Dwarkadas Balkishan Tapdiya ... **Applicant**

V/s.

The State of Maharashtra & Ors. ... **Respondents**

Mr. N.R. Bubna for the Applicant.

Mr. A.R. Kapadnis, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 07th MARCH, 2018

P.C.:

. This is an application under Section 378(4) of Cr.P.C. seeking leave to file Appeal against the judgment and order dated 05.05.2014 passed by the Judicial Magistrate First Class, 4th Court, Malegaon, Dist. Nashik in Summary Criminal Case No. 1499 of 2012, thereby acquitting Respondent Nos.2 to 4 for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2 Heard the learned Counsel for the Applicant.

3 The record indicates that the Applicant failed to prove the fact that the disputed cheque was issued by the Respondent Nos. 2 to 4 was towards their lawful liability or debt to be paid to the Applicant and as the Applicant has failed to produce any record thereby substantiating the fact that he had advanced hand loan to the Respondent Nos. 2 to 4, the Trial Court was pleased to acquit

Respondent Nos. 2 to 4 for the offence alleged against them.

4 After perusing the record, this Court is of the view that the Applicant has clearly failed to prove the basic fact that the Negotiable Instrument in dispute was given by the Respondent Nos. 2 to 4 to the Applicant in discharge of their lawful liability or debt. The view adopted by the Trial Court is the reasonable and probable view in the facts and circumstances of the present case. No case for grant of leave is made out.

5 Application is accordingly rejected.

(A.S.GADKARI, J.)