

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 241 OF 2016

Mr. Rajesh Anant Gharat

....Applicant.

Vs.

Mr. Chandrakant Dattatray Patil & Anr.

....Respondents.

Mr. P.R. Kalantri i/by Abdul shaikh for the Applicant.

Ms. R.M. Gadhvi, APP for the Respondent-State.

Mr. S.H. Joshi for Respondent No.1.

CORAM : A. S. GADKARI, J.

DATE : 20th MARCH, 2018.

P.C.:-

This is an Application under Section 378 (4) of the Cr.P.C. for leave to file Appeal against the Judgment and Order dated 22nd April, 2015 passed by the learned Judicial Magistrate, First Class, IInd Court, Palghar in S.C.C. No. 3677 of 2011, thereby acquitting Respondent No.1 from an offence punishable under Section 138 of the Negotiable Instruments Act.

2 Heard the learned counsel for the Applicant at length and learned counsel for the Respondent No.1. Perused the record.

3 The evidence on record discloses that the Applicant failed

to prove the fact that, after receipt of the cheque return memo dated 13rd July 2011, he issued notice under Section 138 of the Negotiable Instruments Act within the period of limitation i.e. within a period of 30 days. The record further indicates that the notice is issued on 18th August, 2011. The Applicant has further failed to bring on record any evidence in respect of his contention that he, in fact, received the cheque memo on 23rd July, 2011. The Trial Court, has therefore, acquitted the Respondent No.1 on the ground that the notice under Section 138 of the Negotiable Instruments Act was not served upon the Respondent No.1 within the period of limitation.

4 After perusing the 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.)