

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.355 OF 2015

Vishwanath Haribhau Joshi ... **Applicant**

V/s.

Suresh Changu Madhavi & anr. ... **Respondents**

Ms.Heena Suvarnakar i/b. Mr.Kuldeep S. Patil for the applicant.

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

CORAM : A.M.BADAR J.

DATED : 11th JUNE 2018.

P.C. :

1. This is an application for leave to appeal for challenging the judgment and order of acquittal of respondent no.1 of offences punishable under Section 138 of Negotiable Instruments Act, 1881.

2. Heard the learned Advocate appearing for the applicant/original complainant. None appears for respondent no.1. The learned Additional Public Prosecutor appears for respondent no.2-State.

3. Subject complaint is in respect of dishonour of the cheque amounting to Rs.1,00,000/- given by respondent

no.1 to the complainant for discharge of legally recoverable debt. The acquittal is on the assumption that the complainant used to work as construction labour and he has not filed any documentary evidence to show that he was having the principal amount which he claims to have advanced as a hand loan to respondent no.1

4. During the pendency of the complaint, respondent no.1/accused had moved an application Exh.39 stating that he accepted his liability of Rs.1,00,000/- as per the cheque issued by him and he would pay the sum to the complainant.

5. Considering reasoning given in the impugned judgment and order of acquittal, so also the evidence adduced on record, the case of grant of leave is made out, therefore, the order;

:: ORDER ::

- (i) The leave as prayed for is granted.
- (ii) Admit. The applicant to effect necessary amendment in the memo of application for leave to appeal. Then same to be considered as memo of appeal.

(iii) Notice to respondents. The learned Additional Public Prosecutor waives notice for respondent no2.-State.

(iv) Call for record and proceedings.

(A.M.BADAR J.)