

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 278 OF 2016**

Md. Anees Md. Siddique

....Applicant.

Vs.

Abdulla Akhtar & Ors.

....Respondents.

Mr. Vikrant A. Desai i/by S.M. Kamble for the Applicant.

Ms. V.S. Mhaispurkar, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 26th MARCH, 2018.

P.C.:-

This is an Application under Section 378 (4) of Cr. P.C. for leave to file Appeal against the Judgment and Order dated 1st June 2016, passed by the learned 4th Judicial Magistrate, First Class, Malegaon in S.C.C. No. 355 of 2012 thereby, acquitting the Respondent No. 1 from the offence punishable under Section 138 of the Negotiable Instruments Act.

2 Heard the learned counsel for the Applicant at length and perused the record.

3 The evidence on record clearly indicates that the Applicant has failed to prove the basic fact that he, in fact, had supplied the goods i.e. 'Cotton Yarn' to the Respondent No.1 and towards

repayment of consideration of the said transaction, the Respondent No.1 had issued the cheque in question. The evidence further establishes the fact that the Respondent No.1 is successful in rebutting the presumption as contemplated under Section 139 of the Negotiable Instruments Act that there is no lawful liability or debt at his instance towards the Applicant.

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 of grant leave to file appeal is made out.

5 Application is accordingly rejected.

(A.S. GADKARI, J.)