

Nalawade

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 387 OF 2015

Shivkumar K. Taneja ..Applicant.
vs.
Prakash S. More and ors. ..Respondents.

Mr. P.B. Patil for the applicant.
Mr.V.V.Gangurde, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.
DATE : 27th March, 2018

P.C.

1. This is an application under Section 378(4) of the Cr.P.C. for leave to file appeal against the Judgment and Order dated 25.4.2015 passed by the 3rd Judicial Magistrate First Class, Vashi, Navi Mumbai in SCC No 255 of 2013 thereby acquitting the respondents for 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 reveals that the applicant has failed to prove the basic fact that, the cheque in question was issued by respondent Nos.1 and 2 towards their lawful liability or debt. It is the case of the applicant that towards the

repayment of the advance amount accepted by the accused persons for their sale of flat, the cheque in question was issued by them. The applicant has failed to produce any document on record thereby even it can be remotely infer that the cheque in question was issued by respondent Nos. 1 and 2 towards repayment of the advance amount or towards any settlement between the parties prior to the lodgment of the present complaint. The evidence on record further clearly indicates that, respondent Nos. 1 and 2 are successful in rebutting the presumption as contemplated under Section 139 of the Negotiable Instruments Act.

4. After perusing the entire 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 case.

No case for grant of leave to file appeal is made out.

5. Application is accordingly rejected.

(A.S.GADKARI, J.)

23-alp-387-15

(A.S.GADKARI, J.)