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

CRIMINAL APPLICATION NO. 390 OF 2015

Dilip Mansing Garud

..Applicant

Vs

Sunil Punjab Navale & Anr

..Respondents

Mr. H.C. Mangle i/b H.A. Sathe, for applicant.

Mr. R.R. Kapadnis, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 5th MARCH 2018.

P.C.:

1] This is an application under Section 378 (4) of the Cr. P.C., seeking leave to file an appeal against the Judgment and Order dated 28th June 2013 passed by the Judicial Magistrate First Class, Akurdi, Pune in Summary Criminal Case No.6256 of 2010

2] Heard the learned Counsel for the applicant at length and perused the record.

The applicant is the original complainant in the aforestated S.C.C. No.6256 of 2010 filed under Section 138 of the Negotiable Instruments Act. The Trial Court has acquitted the respondent No.1 predominantly on the ground that, the applicant has failed to prove the the

basic fact, that the respondent No.1 towards his lawful liability or debt had issued the negotiable instrument in question to the applicant.

3] After perusing the record, it is apparent that the applicant has failed to establish the basic fact that, the alleged amount for which the negotiable instrument in question was given by the the respondent No.1 to the applicant was issued towards lawful liability or debt, beyond reasonable doubt. This Court is of the opinion that the view adopted by the Trial Court is probable in the facts and circumstances of the present case. This Court finds no error either in law or on facts in the impugned Order.

The application being de hors of merits is accordingly rejected.

(A.S.GADKARI, J.)