

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.289 OF 2016

(For Leave to Appeal – By Private)

Damodar Mahadeo Baile ... **Applicant**

V/s.

Sohel Ahmad Shaikh & Anr. ... Respondents

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Mr.Gaurav Parkar, Advocate for the Applicant.

None for the Respondent No.1.

Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 3rd AUGUST 2018.

P.C. :

1 None for the respondent No.1.

2 Heard the learned Advocate appearing for the
applicant/original complainant and perused the copy of deposition
of the applicant/original complainant. The respondent/original
accused did not adduce any evidence before the trial Court.

3 *Prima facie*, it appears that purport of Section 138 of the Negotiable Instruments Act, 1881 was not properly considered by the trial Court. Case for consideration is made out. Therefore, the Order :

ORDER

- (i) Leave, as prayed, is granted.
- (ii) The Memo of Application for leave to appeal be considered as Memo of Appeal on effecting amendment. Leave to amend to that extent is granted.
- (iii) Admit.
- (iv) Issue notice to respondents.
- (v) The learned Additional Public Prosecutor waives notice for the respondent No.2/State.
- (vi) Call for Record and Proceedings.
- (vii) In the meanwhile, action under Section 390 of the Code of Criminal Procedure before the learned trial Court.

(A.M.BADAR J.)

Raju
Dattatraya
Gaikwad

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Gaikwad
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Gaikwad RD