

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.526 OF 2017

Govind s/o Bhaiyaji Mankar V/s Manoj s/o Gulabrao Gulhane

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri M.A.Sable, Counsel for the applicant.
Shri T.U. Tathod, Counsel for the respondent.

CORAM: ROHIT B. DEO, J.

DATE: 09th MARCH, 2018.

Leave to appeal is sought under Section 378 (4) of the Criminal Procedure Code to challenge the judgment and order dated 25-5-2017 in Summary Criminal Case 642/2015, rendered by the learned Judicial Magistrate First Class, Court 2, Warud, District Amravati, by and under which, the non-applicant/accused is acquitted of offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. The learned Magistrate has recorded a finding that disputed cheque was not issued towards discharge of existing debt or liability.

3. Concededly, it is the case of the complainant that the cheque was issued towards the payment of the consideration of 40 R land sold by the complainant-accused . The sale-deed on record would reveal that total consideration is Rs. 35 Lakhs and Rs. 29 Lakhs are received by the complainant in cash. It is not in dispute that the balance consideration of Rs. 6 Lakh is received by the complainant by a separate cheque which is duly encashed. The finding recorded by the learned Session Judge that since the entire consideration of Rs. 35 Lakh is received, the complainant has not proved that the disputed cheque was issued towards existing debt or liability, is unexceptionable.

4. A possible view is taken and at any rate no perversity in findings is demonstrated. No compelling case is made out to have a second look at the judgment and order of acquittal.

5. Leave to appeal is rejected.