

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

CRIMINAL APPLICATION (APPA) NO. 838/2016

IN
CRIMINAL APPEAL NO. _____/2018

Shree Credit Service, Digdoh
..VS..
Samadhan S/o Ghaman Ghandoje

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

Court's or Judge's orders

Shri S.D. Malke, Advocate for the applicant

CORAM : Z.A.HAQ, J.
DATED : 03/09/2018

The matter is listed in order matters with the office note that the report of service of notice on the non-applicant/respondent is awaited.

The applicant/appellant seeks leave to file appeal to challenge the judgment passed by the learned Magistrate by which the complaint filed by it under Section 138 of the Negotiable Instruments Act, 1881 is dismissed and the non-applicant/respondent is acquitted.

The learned Magistrate has recorded that the complainant has failed to discharge the burden of proving that the cheques in question were issued by the non-applicant/respondent to discharge legally enforceable debt.

It is admitted that the accused had given blank cheques containing only the signature of the accused. It is not in dispute that rest of the contents on the cheques are not in

the hand writing of the accused. The evidence on record shows that according to the complainant, it is in Micro Finance business and the cheques were issued to repay the amount of loan taken by the accused, alongwith interest @ 18% per annum. The complainant has failed to prove that he was holding valid license to carry on the Micro Finance business. I find that the learned Magistrate has properly appreciated the evidence on record and has rightly concluded that the complainant has failed to prove that the cheques in question were issued to repay the legally enforceable debt.

As I find that the appreciation of evidence on record by the learned Magistrate is just and proper, I see no reason to grant leave to the applicant/appellant to file the appeal.

The application is **dismissed**. Consequently, the appeal is rejected.

JUDGE

Ansari