IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.350 OF 2018
Leave to Appeal (Pvt.)

M/s Arti Company .... Applicant
(Ori. Complainant)

Vs.

1. The State of Maharashtra
2. Zulfikar Saifuddin Bohari .... Respondents

Mr. Prasad D. Kulkarni for Applicant.
Mr. S.V. Gavand, APP for the State.

Coram : NITIN W. SAMBRE, J.
Date : 13^{th} December 2019

P.C.:

1. The Judicial Magistrate First Class (Court No.2), Solapur in Summary Trial Case No.7742 of 2004 acquitted the respondent-accused of an offence punishable under Section 138 of Negotiable Instruments Act. The transaction between the parties is borne out of a promissory note, Exhibit 63.

2. So as to demonstrate legally enforceable liability, the witness of the applicant- original complainant has given an admission that even if in the promissory note, there is no mention about the

amount of rate of interest, however, the interest @ 1.8% was to be recovered from the respondent-accused.

3. Considering the definition of loan as prescribed under Section 2, Sub-Section 13(J) and the admission given by the applicant, the amount advanced to the respondent-accused is to be charged @ 1.8%, view expressed by the Magistrate that the transaction in question is loan transaction and as such ordered acquittal.

4. The acquittal of the accused is based on legal provisions. No case for grant of leave is made out. Refused.

5. Needless to clarify that if law permits, it shall be open to the applicant to go for recovery of the amount in civil proceedings.

(NITIN W. SAMBRE, J.)