

BDP-SPS

Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 299 OF 2014
WITH
CRIMINAL APPLICATION NO.300 OF 2014**

Mr. Jagshi Ranmal Gala

.... Applicant.

V/s

State of Maharashtra and Anr.

..... Respondents.

Mr. Prakash V. Dhopatkar for the Applicant in both the Applications.
Mr. A.R. Kapadnis, APP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: DECEMBER 2, 2019

P.C.:-

- 1] Both these Applications are for leave to file appeal.
- 2] The Respondent/Accused is acquitted of an offence punishable under Section 138 of the Negotiable Instruments Act.
- 3] Defence of the Accused is that of denial of liability, as according to him, the cheque was never issued towards legally enforceable debt.
- 4] Considering the factual background as regards the alleged

transaction entered into between the parties, primarily Applicant/Complainant is required to discharge the onus by demonstrating that the Applicant has advanced loan as is claimed. Applicant/Complainant has failed to demonstrate that, on the relevant date, he had financial capacity to pay huge amount to the Respondent/Accused and such amount was paid by him in cash.

5] The learned Magistrate upon appreciation and analysis of evidence has recorded a finding that the Applicant/Complainant has failed to discharge the initial onus.

6] Findings of the learned Magistrate are based on pleadings in the complaint and evidence on record.

7] The view expressed by the learned Magistrate for acquitting the Accused is a possible view. No case is therefore made out for interference. Hence, both these Applications for leave to appeal stand rejected.

(NITIN W. SAMBRE, J.)