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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 403 OF 2019**

Malikarjun Chandrapa MahajanshettyApplicant

V/s.

Udhav Ram Gurav and othersRespondents

Mr. Suryajeet P. Chavan for the applicant

Mr. Nikhil Pawr i/b Mr. Nagesh Y. Chavan for respondent nos. 1 & 2

Mr. A. R. Kapadnis APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : NOVEMBER 4, 2019.

P.C.

Heard.

2 The submissions of learned counsel for the applicant are, complaint case came to be dismissed and acquittal was ordered only on the ground that civil suit between the parties is pending adjudication. According to him, *mens rea* can be inferred from the very conduct of the accused persons in the matter of sale transaction of movable goods.

3 Upon perusal of reasons disclosed in support of order of acquittal, what is noticed is, two tier agreement was entered into between the applicant and accused persons dealing in agriculture farm produce.

4 It appears that the contents of this agreement have prevailed before the learned Magistrate so as to form an opinion that transaction amounts to civil/contractual dispute and that being so, no *mens rea* can be inferred against respondent-accused persons.

5 Order of acquittal is based on oral and documentary evidence placed on record and also the fact that proceedings before the Civil Court were pending between parties based on very said transaction which is formed to be basis for initiation of criminal proceedings. That being so, in my opinion, no case for grant of leave is made out. Leave is refused.

[NITIN W. SAMBRE, J.]