

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

CRIMINAL APPLICATION NO.144/2019

Suresh s/o Gangasingh Chauhan .vs. Rajendra s/o Ganpat Rahangadale

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

Court's or Judge's orders.

Mr. V. R. Borkar, Advocate for applicant.

CORAM : V.M. DESHPANDE, J.

DATED : FEBRUARY 15, 2019

This is an application seeking leave to file appeal challenging judgment and order of acquittal passed by learned Judicial Magistrate First class, Tirora, Dated 22.03.2018 in summary Criminal Case No.606/2012 by which the learned Magistrate acquitted the non applicant of an offence punishable under Section 138 of the Negotiable Instruments Act.

I have heard Mr. V. R. Borkar, learned counsel for the applicant.

According to the complaint, applicant and non applicant were well acquainted with each other and the non applicant was in financial need for purchasing plot. Therefore, he obtained hand loan of Rs.2,86,000/-. For repayment of the said amount, as per the complaint, the applicant gave a cheque i.e. the disputed cheque. However, the said cheque was not honoured by the non applicant's banker. Therefore, the complaint was lodged.

Three witnesses were examined by complainant. The Court below, after appreciating the evidence, found that

the applicant could not prove that he was having substantial sum to lend the same to the non applicant. The Court below, therefore, acquitted the non applicant.

By now, law for consideration of an appeal against acquittal is well crystallized. Merely because another view is possible, the appellate Court should not substitute its own view in place of the view taken by the Court below, if it is noticed by the Court below that the view taken by the Court below is based on available material in the prosecution case.

In that view of the matter, I see no reason to interfere with the impugned judgment. Hence, leave to file appeal is refused and application is rejected. Consequently, the appeal is also rejected.

JUDGE

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