

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

CRIMINAL APPLICATION (APPA) NO.558/2018

CRIMINAL APPEAL _____ **/2018**

Takhatmal Shrivallabh Brothers Proprietorship Firm by its Proprietor Shrirang
s/o Ramratan Chandak since dead represented by Takatmal Shrivallabh
Brothers, Partnership Firm by its Partners

...Versus...

Dr. Rajendra Gopikisan Kalantri, Proprietor Raj Depositors, Amravati

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

Court's or Judge's orders

Shri J.B. Kasat, Counsel for applicant/appellant

CORAM : ARUN D. UPADHYE, J.

DATE : 10/01/2019

Heard the learned Counsel for the applicant/appellant. None appears for the respondent, though served.

The learned Counsel for the applicant submitted that the learned Magistrate acquitted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 on the ground that there was no legally enforceable debt at the time of presentation of the cheque. He further submitted that there is no dispute that cheque (Exh.52) has been issued by the respondent in favour of the complainant. The applicant has made prayer that therefore the leave to file appeal may be granted and the appeal filed by the appellant be admitted.

I have perused the impugned judgment and order. Upon perusal of the same, *prima facie*, it appears that there is no dispute about issuance of the cheque and the matter could be considered on merit. Hence, I proceed to pass the following order.

ORDER

Leave to file appeal is granted.

Criminal appeal is **admitted**.

Call for record and proceedings.

JUDGE

Wadkar, P.S.