

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

CRIMINAL APPLICATION NO.1206/2018

Sanjay s/o Hargovindji Mantri .vs. Gjanan Baliramji Maldure

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

Court's or Judge's orders.

Mr. R. Suryawanshi, Advocate for applicant.

CORAM : V.M. DESHPANDE, J.

DATED : FEBRUARY 6, 2019

Heard Mr. Suryawanshi, learned counsel for applicant. By present application, applicant is seeking leave to file appeal against judgment and order of acquittal passed by learned Additional Sessions Judge-4, Amravati in Criminal Appeal No.43/2016, whereby learned lower appellate Court has allowed the appeal filed on behalf of non applicant and upset the order of conviction passed by learned Judicial Magistrate First Class, Court No. 2, Amravati in Summary Criminal Case No.2209/2008, convicting the non applicant for an offence punishable under Section 138 of the Negotiable Instruments Act.

As per the applicant/complainant, he is Government Contractor and the non applicant/accused, a clerk serving with Zilla Parishad, Amravati. Applicant and non applicant developed cordial relationship and therefore in order to fulfill the financial needs, applicant provided financial assistance to him by advancing loan of Rs.80,000/-. It is further case of the applicant that in

discharge of his legal liability, cheque in question was given by non applicant, which was dishonoured by the banker of the non applicant for want of sufficient funds.

The defence of non applicant was that there was no transaction in between them. According to the non applicant-accused, a banker's cheque was given to brother of applicant, which is misused by the applicant.

After hearing learned counsel for the applicant, I see no reason to disturb the finding recorded by the learned lower appellate Court.

It is to be noted that the cheque in question is not in the handwriting of non applicant but it is typed one. Further, the applicant-complainant is a Government Contractor who files income tax return. However, income tax return or any other account were filed on record to show that in the month of August-2007, he gave hand loan to the extent of Rs.80,000/- to the non applicant.

The learned lower appellate Court, in my view, has correctly appreciated the case in appeal in its correct perspective.

In view of above, the application is rejected. Leave is refused. Consequently, the appeal is dismissed.

JUDGE