

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

CRIMINAL APPLICATION [APPA] NO. 415/2019.

Kiran Sharadrao Deshmukh

-VERSUS-

Gulab Namdeo Ghayal

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri V.K. Paliwal, Advocate for the Applicant.

Shri S.S. Bhalerao, Advocate for Respondent.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 09, 2020.

Heard.

2. The applicant [original complainant] is seeking leave to file appeal to challenge the order of acquittal passed in Summary Criminal Case No.162/2009.

3. Gone through the available records, including copy of judgment. The trial Court held that the complainant was able to prove that accused had issued cheque of Rs.30,000/- which was dishonoured for the reason of 'insufficient funds'. It is also held that the complainant has proved issuance of statutory demand notice. The trial Court however, acquitted the accused by

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holding that the complainant failed to establish legally enforceable liability.

4. The learned counsel for the appellant has attracted my attention to one acknowledgment [Exh.33] by which the accused has admitted receipt of the amount.

5. As against this, the learned Counsel for respondent would submit that there was no pleading to that effect.

6. The impugned judgment does not bear reasoning on the point of acknowledgment. Statutory presumption runs in favour of the complainant. In the background the matter requires a relook. Hence, leave granted as prayed for.

7. Criminal Appeal is **Admitted**. Learned Counsel appearing for respondent waives service.

JUDGE

Rgd.