

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

CRIMINAL APPLICATION (APPA) NO. 487 OF 2019

Prasad Purushottam Bayaskar

..vs..

Madhav Ramrav Kale

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

Court's or Judge's orders

Shri P.S. Tidke, Advocate for the appellant.

CORAM : VINAY JOSHI, J.

DATED : 4th JANUARY, 2020

None appears for respondent.

2. Heard.

3. Despite service of notice on the question of grant of leave, the respondent-accused remained absent. The appellant had filed Summary Case No. 386 of 2016 against the respondent-accused for commission of offense punishable under Section 138 of the Negotiable Instruments Act, 1881. It is the appellants' case, that the respondents' wife was indulging into business activities alike the appellant. In order to discharge the wife's liability, the respondent has issued a cheque to the tune of Rs.67,740/- which was came to be dishonored.

4. On perusal of the impugned judgment, it reveals that the statutory compliance like issuance of demand notice and filing of complaint within stipulated period, has not been disputed. Learned Trial Judge has acquitted the accused by holding that the appellant has

failed to established that there was the legally forceable death. The appellant took me through the part of reasons particularly paragraph 10 and 11 of the judgment to impress in order to discharge the wifes' liability, the cheque was issued. He has also stated that the Trial Court has misread the statutory presumption under Section 139 of the Negotiable Instruments Act, 1881.

5. In view of that following order is passed :

- (i) Leave to appeal granted.
- (ii) Appeal is **Admitted**.
- (iii) Action under Section 390 Cr.P.C. shall follow. The respondent be released on bail upon executing the bail bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Magistrate.
- (iv) Call R & P.

JUDGE

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