

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

CRIMINAL APPLICATION [APPA] NO. 665/2019.

Shree Motors, Amravati

-VERSUS-

Yogesh Dnyaneshwarrao Dhote

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

Court's or Judge's Orders

Ms. R.V. Palaspagar, Advocate for the Applicant.
None for the Respondent.

CORAM : VINAY JOSHI, J.

DATE : DECEMBER 01, 2020.

Heard.

2. The applicant/appellant/original complainant is seeking leave to file appeal challenging the order of acquittal passed by the learned Magistrate in Summary Criminal Case No.2282/2013 for the offence punishable under Section 138 of the Negotiable Instruments Act.

3. The applicant/complainant is an authorized dealer of Force Motors Limited, and is doing business of sale of commercial vehicles and

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its spare parts. It is the case of the applicant that the respondent/accused has purchased spare parts from it, against which he has issued a cheque amounting to Rs.25,000/- towards discharge of the said liability. The applicant has deposited the said cheque with its Banker, but, it was dishonoured, therefore demand notice was issued within stipulated time, and as payment was not forthcoming, complaint came to be filed.

4. Parties led evidence before the trial Court.

5. It is not in dispute that the accused had purchased a vehicle from the complainant for which necessary amount was paid. The complainant has specifically come up with a case that the cheque amount was towards purchase of spare parts and other charges. The learned trial Court while acquitting the accused has recorded a finding in paragraph no.13 of the judgment that two invoices on the basis of which claim has been raised, do not bear any endorsement that spare

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parts were sold to the accused on credit. Moreover, it reveals that the complainant has not furnished bills vide which the spare parts were sold. The exact date on which the spares parts were sold is not forthcoming. It appears that the accused has defended the complaint stating that the cheque was issued towards security.

6. For the reasons as set out in paragraph no.13 of the judgment, it is held by the trial Court that essential ingredients to constitute the offence are not proved. It emerges that the complainant has failed to establish that the cheque was issued towards discharge of legal liability, therefore, there is no purpose in raising challenge to the impugned judgment of acquittal, hence, leave to file appeal is refused. As leave is refused, Criminal Appeal stands dismissed.

JUDGE

Rgd.