

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

941 APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY NO.224 OF
2018

KALYAN S/O. BABASAHEB KANTULE
VERSUS
SAMEER PADMAKAR DESHPANDE

Mr.D.M. Shinde, Advocate for the applicant.
Mr.Bharat Londhe, Advocate for the respondent.

CORAM : N.R.BORKAR, J.
DATED : 30.11.2021

PC :-

01. This is an application under section 378(4) of the Cr.P.C. for leave to file appeal. The appeal takes an exception to judgment and order dated 09.04.2018, passed by the learned Judicial Magistrate, First Class, Ghansawangi in Summary Criminal Case No.257 of 2016.

02. The applicant herein had filed complaint case against present respondent for the offence punishable under section 138 of the Negotiable Instruments Act. Perusal of the impugned judgment and order reveals that the learned Trial Court recorded all the findings in favour of the present applicant in relation to the issuance of cheque and issuance of statutory notice. However, the learned Trial Court has held that the applicant failed to prove that the cheque was issued for

discharge of debt or other enforceable liability. Considering the fact that issuance of cheque is not in dispute, case is made out for grant of leave to file appeal.

03. In the result, leave is granted to file appeal.
04. The appeal be registered.
05. Admit.
06. Learned Counsel for the respondent waives notice.
07. Call for record and proceedings.
08. Action be taken under section 390 of the Cr.P.C.
09. Hearing of the appeal is expediated.

[N.R.BORKAR,J.]