

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 88 OF 2015
WITH
CRIMINAL APPLICATION NO. 876 OF 2018
IN
CRIMINAL APPLICATION NO. 594 OF 2015
IN
CRIMINAL APPLICATION NO. 88 OF 2015**

M/S. LIBRA (AGENCIES) PVT. LTD.

....APPLICANT

V/s

THE STATE OF MAHARASHTRA
AND OTHERS

.....RESPONDENTS

None for the applicant

Mr. A. R. Kapadnis APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : NOVEMBER 23, 2021

P.C.:-

1] For dishonour of three cheques issued in 2010-2011, non-applicant no. 2 partnership firm and non-applicant no. 3 partner came to be prosecuted for an offence punishable under Section 138 r/w 141 of the Negotiable Instruments Act. Court of Metropolitan Magistrate acquitted the accused on 26/05/2014. As such, this application.

2] Application for grant of leave to appeal was delayed. Application No. 594/2015 was moved for condonation of delay. This Court ordered notice on the said application, however, necessary compliances were

not carried out by the applicant. As such, this Court dismissed the said application seeking restoration for which Application No. 876/2018 came to be moved.

3] It appears that present Application i.e. Application for leave to prefer appeal is pending since 2015 questioning the acquittal on 26/05/2014.

4] Counsel for the applicant has informed this Court that he is no more representing the interest of the applicant as no objection as sought for was already issued to the applicant. On 22/11/2021, inspite of the fact that matter was called out twice and none appeared. As such, this Court proceeded to hear the matter by appointing Advocate Shri. Veerdhawal Deshmukh for the applicant and learned APP for respondent no. 1. Entire documents placed on record including that of evidence is perused.

5] Apart from the fact that applicant has not made out a case for condonation of delay, it is worth to mention here that factum of legally enforceable debt is sought to be proved by the applicant by discharging its initial burden by relying on the copies of minutes of joint meeting. Admittedly original of such minutes is neither placed nor proved in the evidence.

6] It is also required to be noted that applicant has failed to prove his case through witness C.W. 1 Mr. Shinde as the authorisation issued by the applicant was not proved.

7] Apart from above, applicant has failed to place on record any documentary evidence to discharge initial burden of legal liability of respondent to the tune of Rs. 3,40,000/-.

8] In the aforesaid background, in my opinion, neither case for condonation of delay nor for showing any indulgence thereby granting leave to appeal is made out. Application for leave as such stands refused.

9] All connected applications stand disposed of.

(NITIN W. SAMBRE, J.)