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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 388 OF 2013

LIC HOUSING FINANCE LIMITED

....APPLICANT

V/s.

M/S. JHB CONSTRUCTIONS (P) LTD
AND ORS

.....RESPONDENTS

None for the applicant

Ms. Keral Mehta Advocate appointed for the applicant

Mrs. J. S. Lohokare APP for the State

None for respondents

CORAM : NITIN W. SAMBRE, J.

DATE: NOVEMBER 18, 2021.

P.C.:

- 1] This application is pending since 2013.
- 2] Matter was listed yesterday and on 2nd pass over, none appeared. Even today also, none appeared for the applicant.
- 3] In the aforesaid background, the Court is constrained to decide

the matter. This Court requests and appoints Ms. Keral Mehta to assist in the present case.

4] Learned counsel Ms. Keral Mehta has gone through the record of the proceedings. Said proceedings were initiated by the applicant for an offence punishable under Section 138 of the Negotiable Instruments Act r/w 420 of Indian Penal Code.

5] Learned Court of Magistrate acquitted the respondent. As such, this application for leave to appeal.

6] With the assistance of learned counsel Ms. Keral Mehta, I have perused the judgment impugned.

7] Order of acquittal is based on appreciation of evidence. It is further claimed that applicant has failed to examine the witnesses so as to establish that respondent-accused has issued the cheque towards admitted debt. Apart from above, issuance of notice under

the Negotiable Instruments Act was also not proved as the applicant has not examined any witness to that effect.

8] In this background, order of dismissal does not warrant any interference. That being so, prayer for grant of leave stands refused.

9] In view of assistance rendered by Ms. Keral Mehta, Legal Aid Services Committee is directed to pay admissible professional fees to her.

[NITIN W. SAMBRE, J.]

IRESH
SIDDHARAM
MASHAL

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Date: 2021.11.22
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