

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

CRIMINAL APPLICATION [APPA] NO. 319/2021.

Anoop Niranjan Dodiya

-VERSUS-

Anoop Gulabraoji Agarkar.

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

Court's or Judge's Orders

CORAM : VINAY JOSHI, J.

DATE : AUGUST 05, 2021.

Heard learned Counsel holding for Shri
V.R. Deshpande, Advocate for the Applicant.

2. The applicant is seeking leave to file appeal for challenging the order of acquittal passed in SCC No. 2328/2013 dated 30.03.2021 by the Additional Chief Judicial Magistrate, Akola, by which the respondent has been acquitted for the offence punishable under Section 138 of the Negotiable Instruments Act.

3. The applicant has put up a case before the trial Court that the respondent has issued a cheque of Rs.2 lakhs towards discharge of a legally

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enforceable liability. Since the said cheque was dishonoured, a statutory notice was issued, which was served, but, payment was not made during the stipulated period.

4. With the assistance of the learned Counsel h/f. Learned Advocate for the applicant, I have gone through the impugned judgment of the trial Court. The trial Court has held that the cheque was issued within a stipulated period, as well as the statutory demand notice was proved to be duly served and the amount has not been deposited. It is pointed out that the learned trial Court in paragraph no.46 of the judgment has only on the basis of a reasonable doubt, held that the complainant has failed to establish a legally enforceable liability.

5. The learned Counsel for the appellant took me through other part of the judgment to impress that there is sufficient evidence to prove the transaction. According to the applicant, the trial Court has not considered the statutory

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presumption running in his favour. The applicant has made out an entertainable case, hence, leave to file appeal is granted. The appeal be accordingly registered.

6. Issue notice of the appeal to the respondent, returnable on 03.09.2021.

List this matter along with Criminal Appeal No.315/2021 on the returnable date.

Rgd.

JUDGE