

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

CRIMINAL APPLICATION (APPA) NO. 505/2021 IN
CRIMINAL APPEAL NO. _____/2021

(Laxman Krushnarao Dhakate Vs. Mohd. Imran Rizwi s/o Abdul Sattar Rizwi)

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

Court's or Judge's Orders

Shri S. A. Marathe, Advocate for appellant/Applicant.
None for respondent – sole.

CORAM : VINAY JOSHI, J.

DATE : 30.09. 2021.

Heard.

2. Despite service of notice, the respondent (accused) has not appeared. Perused impugned judgment and related documents. The appellant had filed Summary Criminal Case No.26488/2017 against respondent for offence punishable under Section 138 of the Negotiable Instruments Act ('N. I. Act'). It is appellant's case that he has lent Rs. 3,50,000/- to the respondent and towards refund, respondent has issued a disputed cheque. The cheque was dishonored for the reason of insufficient funds. Statutory notice was issued but payment was not made within

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stipulated period. The complainant led evidence and produced necessary documents.

3. Prima facie perusal of impugned judgment indicates that there is no dispute regarding the dishonor of cheque and issuance of statutory notice. The Trial Court has acquitted accused by stating that it is not probable that the complainant would give such hand loan on casual acquaintance. The statutory presumption under Section 139 of the N. I. Act has not been considered. The appellant has made out ground for grant of leave for re-appreciation of entire evidence.

4. Leave granted.

Criminal Appeal No. _____/2021

1. Heard.

2. **Admit.**

3. Issue notice to the respondent returnable after four weeks.

JUDGE

Gohane.