

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

CRIMINAL APPLICATION (APPA) No.800/2019
IN
CRIMINAL APPEAL NO.644/2019

Nitin S/o Mukund Pawar,
-VERSUS-
Saiyyad Musharraf, Proprietor Siddhiki Tour and Travels, Mumbai.

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

Court's or Judge's Orders

Shri A.S. Deshpande, Advocate for applicant/appellant.

CORAM : VINAY JOSHI, J.
DATE : NOVEMBER 26, 2021.

Heard.

2. The applicant-original complainant is seeking leave to file appeal to challenge the order of discharge(acquittal) dated 02/07/2019. the said order was passed by learned Magistrate in terms of Section 256 of the Code of Criminal Procedure due to non-appearance of appellant/complainant. It is submitted that the respondent is resident of Mumbai and despite several efforts, he never appeared in the Trial Court. The appellant's learned Counsel took me through the entire Rojnama to impress that several efforts were made.

3. The record indicates that in this appeal also several attempts were made but respondent was not served. Finally, as an additional mode with

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permission of this Court, WhatsApp notice was sent to respondent which he received. Despite that respondent is absent. Prima facie it can be found that respondent is aware about the proceedings. However he chooses not to appear as already complaint was dismissed by the Trial Court.

4. In such a peculiar circumstance, I have considered the prayer for grant of leave. Admittedly, acquittal is not on merits. The disputed cheque is of Rs.10,00,000/-. Perusal of Rojnama indicates that the matter was for return arrest warrant. Having regard to said fact, leave to appeal is granted.

5. Appeal be registered accordingly.

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Heard.

ADMIT.

Issue fresh notice to the respondent returnable after four weeks.

JUDGE

R.S. Sahare