

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3628 OF 2017

SHIVAJI RAVJI DHEPLE
VERSUS
KISHOR SANTOSH PAWAR

...

Advocate for Applicant : Mr. Nangare Prashant R.
Advocate for Respondent : Mr. Vyankatesh Ashroba Mundhe h/f Mr. Karad
Murlidhar S.

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CORAM : KISHORE C. SANT, J.
DATE : 13th DECEMBER 2022.

Per Court :

Heard the applicant/original complainant for sometime.

1. The complainant had filed complaint against the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act. He submitted that voluminous evidence is produced before the trial Court, sufficient enough to prove the guilt of the accused. However, the learned trial Judge has acquitted the respondent only by stating that impugned cheques have been given in the year 2013. The other cheques from the said cheque book were en-cashed in the year

2013, which were given to other parties. These cheques were given only for security and the same are misused. It is submitted that thus the learned trial Court has not taken into consideration the presumption under Section 118 and 139 of the N. I. Act. The learned Court below however relied upon the story put forth by the accused, which is not sufficient to rebut the presumption under Section 139 of the N.I. Act.

2. Considering the submissions and after hearing both the parties, leave is granted to file appeal against the acquittal, challenging the judgment dated 19.06.2017 passed by the learned 14th Judicial Magistrate First Class, Aurangabad in S.C.C. No.8894/2015.

3. Office to register the application as appeal and the same be admitted.

4. Learned Advocate for Respondent waives service of notice on behalf of Respondent.

5. Stand over to 17.01.2023. In the meantime, call record and proceedings.

[KISHORE C. SANT, J.]