

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

912 APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY
NO.192 OF 2018

ARUN MADHUKAR BOROLE
VERSUS
MADHUKAR BHASKAR PATIL

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Advocate for Appellant : Mr. Yogesh Jadhav h/f Nagori
Girish

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CORAM : SHRIKANT D. KULKARNI, J.
Dated: August 02, 2022

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PER COURT :-

1. The applicant/original accused is seeking leave to prefer an appeal by taking aid of section 378 (4) of the Criminal Procedure Code.

2. Heard Mr. Jadhav h/f Mr. Nagori, learned counsel for the applicant. He submitted that, the complaint came to be dismissed in default and original accused came to be acquitted for the offence punishable u/s 138 of the Negotiable Instruments Act vide impugned order dated 9.6.2017. He submitted that the complainant was not at fault. It was the fault of his Advocate, who failed

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to take steps which ultimately dismissed the complaint. He, therefore, urged to grant leave to file appeal.

3. I have gone through the impugned order below exhibit 1 in SCC No.2709 of 2013 as well as Roznama-sheet in the said proceedings. It is a case of dishonour of cheque of Rs.20,000/-. On going through the impugned order and Roznama-sheet, it is very much clear that the complainant had failed to take necessary steps inspite of giving sufficient chances. Roznama-sheet indicates long standing absence of the applicant/original complainant and his Advocate. The proceedings under the provisions of N.I. Act 1881 came to be lodged in the year 2013 and the applicant/original complainant failed to take necessary steps till the year 2017, which ultimately resulted in passing the impugned order. The impugned order cannot be said to defective in the eye of law. For four years the complainant and his Advocate failed to take necessary steps and the matter was unnecessarily dragged. Under these

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circumstances, no case is made out to grant leave.

Leave is refused. Application is disposed off.

(SHRIKANT D. KULKARNI, J.)

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