

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.169/2022

Indermohan Singh s/o Suvinder Singh Sethi

Vs.

Prashant s/o Suresh Thorat

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Sachin Katarpawar, Advocate for appellant

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 29/09/2022

The present application is filed for grant of leave to file appeal against acquittal of respondent. It is contended that by the judgment dated 31/05/2017 passed by the learned 12th Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Nagpur in Summary Criminal Case No.319522/2015 thereby acquitting the respondent from the charge of Section 138 of the Negotiable Instruments Act, 1881.

2. The respondent is the owner of a truck and the respondent had delivered petroleum products to the outlet of the appellant several times. Therefore, the appellant and respondent both were known to each other. There was some loss due to illegal activities by the respondent and he assured to repay the entire estimated amount of loss to him within the days. The cheque issued to the complainant for this transaction came to be dishonoured and hence proceedings were initiated under Section 138 of the Negotiable Instruments Act, 1881.

3. The learned Additional Chief Judicial Magistrate acquitted respondent on the ground that the appellant failed to prove that the cheque was issued by respondent in discharge any legal terms or liability.

4. I have heard both the parties, in my considered opinion, there is prima facie good case on merit. As such leave is granted.

5. The Registry is directed to register the appeal.

CRIMINAL APPEAL ST. NO.1598/2022

1. Issue notice to the respondent, returnable within two weeks.

2. Learned Additional Public Prosecutor waives notice for respondent/State.

JUDGE

R.S. Sahare