

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

CRIMINAL APPLICATION (APPA) NO.468 OF 2019
IN
CRIMINAL APPEAL NO. _____ OF 2022

(Atul Himmatlal Goda Vs. Varsha Chetan Shah)

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

Court's or Judge's orders.

Mr. Alok Daga, Advocate for Appellant.
Mr. P.W. Mirza, Advocate for Respondent.

CORAM: **AVINASH G. GHAROTE, J.**

DATE: **29th JUNE, 2022.**

Heard Mr. Daga, learned Counsel for the applicant and Mr. Mirza learned Counsel for the respondent.

The complaint under Section 138 of the Negotiable Instruments Act came to be dismissed by the learned Judicial Magistrate First Class, Akola only on the ground that the power of attorney holder was not competent to lead evidence. By relying upon Exh.20, an agreement of sale of the flat in question, which was the transaction in respect of which the cheque was issued, it is contended that the power of attorney was a joint signatory to the said agreement and therefore, clearly had knowledge regarding the said transaction and thus was competent to depose regarding the same. Since this aspect has not been considered by the learned Judicial Magistrate First Class, Akola while dismissing the complaint, a case for leave is made out. Accordingly the leave is granted. Office to register the appeal.

CRIMINAL APPEAL NO. _____/2022:

Issue notice to the respondent on merits of the matter.

Advocate Shri Mirza waives service of notice for the respondent.

Considering that a short point is involved in the matter, the same can be disposed of at the stage of admission itself, since the R & P has already been received, in view of which, list the matter for final disposal on 12.07.2022.

JUDGE

NSN