

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

**Criminal Application (APPA) No. 652 of 2021
and
Criminal Application (APPA) No. 686 of 2021**

Savita W/o Prabhakar Swami

Versus

Sumresh S/o Dilip Chudiwal

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri J.D.Bastian, Advocate for the applicant.

Shri Dhruv Sharma, Advocate h/f Shri A.K.Bhangde,
Advocate for the respondent.

CORAM : ANIL S. KILOR, J.

DATED : 6th DECEMBER, 2022.

These criminal appeals take exception to the judgments and orders dated 8th September, 2021 passed by the Additional Chief Judicial Magistrate, Nagpur in Summary Criminal Case Nos. 308221 of 2010 and 316153 of 2010 acquitting the respondent for the offence punishable under Sections 138 of the Negotiable Instrument Acts, 1881.

2. I have heard learned counsel for the respective parties.

3. In this case the cheques which were issued by the respondent in favour of complainant was in

respect of agreement to sale of land. However, the said agreement to sale of land itself stood cancelled and therefore the learned trial Court has rightly held that when the agreement of sale itself stood cancelled then it cannot be held any legally enforceable liability was due under that document. Learned trial Court after discussing various authorities on this issue, acquitted the respondent .

4. Learned counsel for the appellant is not disputing the fact that the agreement to sale of land against which the cheques issued itself stood cancelled.

5. In the circumstances, I do not find any error committed by the learned trial Court in acquitting the respondent. Accordingly, I pass the following order.

i. Leave to appeal is refused.

[ANIL S. KILOR, J.]

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