

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

922 APPLICATION FOR LEAVE TO APPEAL BY PVT PARTY
NO. 2 OF 2023

GANESH DNYANDEO PALVE
VERSUS
YASH AUTO PRODUCTS THROUGH ITS PROPRIETOR ANITA
DNYANESHWAR GADE

...
Mr. B.N. Magar h/f. Mr. P.G. Tambade – Advocate for Applicant

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CORAM : SANDIPKUMAR C. MORE, J.
DATE : 15th September, 2023

PER COURT :

1. Heard learned Counsel for the applicant – complainant, who is seeking leave to file appeal against the judgment and order passed by learned Addl. Chief Judicial Magistrate (Court No.10) Ahmednagar in S.C.C. No.4320 of 2018 on 22.11.2022 whereby the respondent – accused has been acquitted.

2. According to the learned Counsel for the applicant, there was business transaction between complainant and husband of accused – Anita Dnyaneshwar Gade and in that connection the cheque in dispute was issued by the accused. He further

pointed out that, the learned Trial Court wrongly acquitted the accused since the applicant – complainant could not establish that the cheque in dispute was issued in discharge of legally enforceable debt.

3. It is significant to note that, the accused despite service remained absent. Moreover, it is evident from the judgment itself that the accused did not dispute her signature on the cheque but she only contended that the complainant took the cheque in dispute forcibly. However, it further seems that despite the statutory notice the accused – respondent did not reply the same. She has also did not enter into witness box to establish the fact that the complainant had forcibly took out the cheque from her custody.

4. There is no oppose to this application and, therefore, considering the aforesaid aspect, the complainant has made out arguable case. In view of the same, following order is passed :

ORDER

(a) Application is hereby allowed.

(b) The appeal of applicant be registered after removal of office objections, if any.

(c) The application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE