

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

**922 APPLICATION FOR LEAVE TO APPEAL BY PRIVATE
PARTY NO.47 OF 2020**

Bhavika Prakash Jaysing
Age : 35 yrs, occ : business
R/o Siddhi Colony, Tarakpur,
Ahmednagar

Applicant

Versus

Sunil Parasram Chhajlani
Age : 52 yrs, occ : service
R/o 26, EME Colony, Bhingar,
Pathardi Road, Ahmednagar

Respondent

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Mr. P.S. Anerao, Advocate for the applicant.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 14th September 2023.

ORDER:-

1. Heard learned Counsel for the applicant.
2. The applicant is seeking leave to file appeal against the acquittal of respondent/original accused from the charge under Section 138 of Negotiable Instruments Act (for short, "N.I. Act") in S.C.C. No. 1992/2015 under the judgment and order dated 26.06.2020 passed by the learned Chief Judicial Magistrate, Ahmednagar.
3. The respondent/accused, despite service, remained absent.
4. On perusal of the impugned judgment, it appears that

the learned Chief Judicial Magistrate, Ahmednagar has acquitted the respondent accused since the disputed cheque was not issued for any lawful consideration. The case of the applicant is that the accused had in fact taken an amount of Rs. 2,50,000/- from the applicant for giving her job and for the refund of said amount, the cheque in dispute was given.

5. Though the respondent/accused had taken defence that the applicant/complainant misused his cheque which was given as a security, but he did not deny the fact of issuance of cheque. According to him, he had in fact returned the amount to the complainant.

6. The learned Chief Judicial Magistrate has also observed that the applicant / complainant had proved the fact as per the presumptions under the provisions of N.I. Act that the respondent/accused had issued the cheque in dispute.

7. There is no oppose to the application since the respondent / accused despite service, failed to appear. In view of the same, fresh consideration is required for the case of applicant. Thus, the application stands allowed and the appeal of the applicant be registered after removal of office objections, if any.

8. The application stands disposed of.

(SANDIPKUMAR C. MORE, J.)