

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

APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY NO.60 OF 2022

M/S. A.M. JALGAONWALA AGRO PRODUCT, SHIRPUR,
THROUGH, SUJIT GOKUL SONAWANE

VERSUS

RAMKRUSHNA SUKDEV PAWAR

...

Advocate for Appellant : Mr. C. V. Bhadane

Advocate for Respondents : Mrs. A. N. Ansari

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CORAM : R.M. JOSHI, J

DATE : AUGUST 09, 2023

PER COURT :

1. This application is filed for seeking leave to file appeal against judgment and order of acquittal of the accused for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. *Prima facie* perusal of the evidence on record indicates that there is no suggestion made to the complainant in the cross-examination that the cheque in question was issued by way of security. Further there is no suggestion to the fact that mandatory notice was also not issued to him. Suggestion, on the contrary, indicates that cheque was signed and issued by the accused. Learned trial Court, *prima facie*, has

committed error in calling upon the complainant to prove legally enforceable date without presumption of Sections 113 and 118 of the N.I. Act being rebutted by the accused. Apparently, judgment in question is contrary to the law settled by Hon'ble Apex Court in case of Rangappa Vs. Shrimohan, (2010) 11 SCC 441 . Hence, it I fit case to permit the complainant to file Appeal against acquittal.

3. Hence, application stands allowed. Appeal be registered.

(R.M. JOSHI, J.)

Malani