

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

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO.114 OF 2022

Deogiri Nagari Sahakari Pat Sanstha Ltd.
Through its Authorized Officer
Anil Kachru Sultane

.. Applicant

Versus

Nilesh Ramdin Kori

.. Respondent

Mr. Satish A. Gaikwad, Advocate for the Applicant.

CORAM : KISHORE C. SANT, J.

DATED : 17th FEBRUARY, 2023.

P C. :-

. Though respondent is served, none appears for respondent.

2. This is an application seeking leave to file an appeal against acquittal challenging the judgment and order dated 04.11.2022 passed by the learned 8th J.M.F.C., Aurangabad thereby acquitting the respondent of the offence punishable under Section 138 of the Negotiable Instruments Act.

3. Learned advocate for the applicant submits that though there was evidence on record, learned Magistrate has recorded acquittal only on the ground that the complainant charged interest for the period of 13 days extra and therefore, the accused was not liable to pay the

amount of cheque. He submits that the Trial Court has not recorded a finding that the accused was not liable at all, but for this variation the complainant has clearly proved its case.

4. Considering the submissions and perusing the judgment, this Court finds that a case is made out to grant leave to file an appeal against acquittal.

5. Office to register the application memo as appeal.

6. After registration of appeal, issue notice to respondent, returnable on 10.03.2023.

(KISHORE C. SANT, J.)

PS.B.