

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

CRIMINAL APPLICATION NO.6549 OF 2017

**RUPESH S/O. JAWAHARLAL JAIN
VERSUS
PRAMOD S/O. RADHESHAM SHARMA**

Mr. A. D. Pawar, Advocate for the applicant

**CORAM : R. M. JOSHI, J.
DATE : 08th JUNE, 2023**

P.C. :-

1. This application is filed by the complainant in S.T.C. No. 709/2010 for seeking leave to file appeal against the judgment of acquittal dated 11/09/2017.
2. Learned counsel for the original complainant states that Trial Court has committed error in not considering the evidence on record and in particular the bank entries indicating issuance of cheques by the complainant in favour of accused. According to him the learned Trial Court on technicalities has acquitted the accused.
3. Perusal of the impugned judgment shows that Trial Court found the transaction as claimed by the complainant doubtful. It is also recorded by the complainant was unable to satisfactorily explain about

the entries of two cheques amounting to Rs.80,000/-.

4. In the light of this evidence on record if the notice (Exhibit 20) and the complaint (Exhibit 1) is perused, then there is no mention found therein about the complainant advancing loan of Rs.1,30,000/- by paying Rs.50,000/- cash and two cheques of Rs.70,000/- and Rs.10,000/-. In fact in the notice (Exhibit 20) it is stated that entire amount was lend in cash. The evidence of the complainant himself is contrary to his own case. Once doubt is created about the case against the accused, the benefit of the same must go to the accused.

5. In above circumstances, this Court does not find any perversity in the impugned judgment. Hence, leave to appeal stands refused. Application is disposed of.

(R. M. JOSHI, J.)

ssp