

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION TO FILE APPEAL BY PRIVATE PARTY NO. 208 OF
2019

Parmindarsingh Kishansingh Wahi

Applicant

Versus

Rahul Hiralal Gaikwad

Respondent

Mr. J. V. Deshpande, Advocate for the applicant.

CORAM : R. M. JOSHI, J.
DATE : 16th JUNE, 2023.

PER COURT :

1. Heard learned counsel for the applicant. None for the respondent though duly served.

2. Learned counsel for the applicant submits that the Trial court committed error in not considering presumptions in respect of Negotiable Instrument under Negotiable Instruments Act and it is wrongly held that complaint has failed to prove legally enforceable debt. To support his submission, he drew attention of this Court to the cross-examination of the complainant wherein though suggestion is made that blank cheque was given by way of security, the said suggestion was denied by the complainant. Considering the

presumptions in respect of Negotiable Instrument under Sections 118 and 139 of the Act and also in view of judgment of the Hon'ble Apex Court in the case of Rangappa vs. Shrimohan, **(2010) 11 SCC 441**, complaint would be required to prove legally enforceable debt only after accused succeeds in rebutting these presumptions. Apparently, accused failed to rebut the presumptions. Hence, case is made out for grant of leave to file appeal against acquittal.

3. Application is allowed. Appeal be rejected.

(R. M. JOSHI)
Judge

dyb