

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.538 OF 2023

(Warud Taluka Sarkari & Nimsarkari Karmchari Sahakari Patsanstha Marya. Warud Vs.
Kamalkishor s/o Pundlikrao Kairkar)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Kushal Jain, Advocate for the appellant.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 27, 2023.

Heard.

2. Present application is filed by the appellant for seeking leave to file appeal.

3. Learned Counsel for the appellant submitted that the appellant is the original complainant who had filed complaint under Section 138 of the Negotiable Instrument Act, 1881. The respondent has issued a cheque against the enforceable date. The respondent has not denied his signature on the said cheque. Said cheque was dishonoured. In view of the provisions, the appellant has issued the notice. After receipt of the notice within stipulated period, the amount was not repaid, and therefore, the appellant has filed criminal complaint against the respondent. Learned trial Court had not considered that the cheque was issued against the legal and enforceable date. The respondent has also not denied the signature on the said cheque. However, learned trial Court ignoring the evidence, acquitted the accused. The

appellant has many arguable grounds in the appeal, and therefore, leave be granted.

4. Heard learned Counsel for the appellant and perused the judgment of the trial Court. It reveals that the appellant has many arguable points in the appeal and he has every chance of success in the present appeal.

5. In view of that leave is granted.

CRIMINAL APPEAL (ST.) NO.3735 OF 2023

Heard.

2. **ADMIT.**

3. Issue notice to the respondent.

4. Call for R. & P.

5. Place the matter before the Court after receipt of R. & P.

(URMILA JOSHI-PHALKE, J.)