

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

CRIMINAL APPLICATION (APPA) NO.799 OF 2022 IN
CRIMINAL APPEAL STAMP NO.7624 OF 2022

Laxmi Gajanan Ninaw Vs. Vishwanath Gajanan Bajjirao

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri S.T. Dhurwey, Advocate for applicant.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 13, 2023.

By this application, the applicant is seeking leave to file appeal under Section 376(4) of the Code of Criminal Procedure (for short, 'Code') against the judgment and order of acquittal dated 23.05.2019 passed by the learned 15th Judicial Magistrate First Class, (Special Court for 138 N.I. Act), Nagpur in Sum. Comp. Case No.2996/2014 for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. The case of the applicant is that he had given cash of ₹1,50,000/- on 09.05.2012 and ₹50,000/- on 20.10.2012 to the non-applicant for his personal need. Both had cordial relationship. The non-applicant had assured to repay the amount after getting loan from the Society. The non-applicant had issued cheque to repay the amount. The signatures on cheque has not been disputed by the applicant but the defence is that the cheque was issued to one Shri Ramesh Burde and he had transferred it to the applicant.

3. The learned counsel for the applicant submits that the cheque was issued in the name of applicant and that therefore the defence ought not to have been considered to the extent of acquittal of the non-applicant.

4. Since appeal being first appeal and since there is no opposition to the applicant by the non-applicant, I see every reason to resist the entire evidence in other word there is no reason why leave should not be granted. Hence, the application is allowed and thus leave to file appeal is granted. Appeal be registered.

5. The application is disposed of.

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6. List for admission in due course.

(Anil L. Pansare, J.)

Wagh