

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

...

CRIMINAL APPLICATION (APPA) NO.1026/2022

IN

CRI.APPEAL (ST) NO. 9103/2022

Pralhad Ranglal Agrawal

.. Applicant

versus

Gopal Udhavrao Khod and another

.. Respondent/s

.....
Mr. V. V. Tibdewal, Advocate for the applicant /appellant

Mr. M.J. Khan, APP for Respondent No.2

Respondent No.1 though served is absent.

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CORAM: ANIL L. PANSARE, J.

DATED : 29th March, 2023.

PC:

Heard. The respondent No.1 though served, is not present.

This Appeal is against the judgment and order dated 01.09.2022 passed by the learned Addl. Chief Judicial Magistrate , Akola in S.C.C. No.1170/20217, thereby acquitting the Respondent No.1 for the offence punishable u/s 138 of the Negotiable Instruments Act.

It appears from the record that the cheque has been issued by the respondent No.1. The learned Magistrate, however, was of the opinion that the appellant/ original complainant failed to discharge burden of proving legally enforceable liability. The learned counsel for the applicant submits that the learned Magistrate has not considered the effect of presumption under section 139 of the N.I. Act.

Having regard to the above, to my mind, this being the first appeal, it would be necessary to revisit the entire evidence. Hence leave is granted. The Appeal be registered.

Put up the Appeal for admission after two weeks.

[ANIL L. PANSARE, J.]

sahare