



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

**APPLICATION FOR LEAVE TO APPEAL BY PRIVATE PARTY
NO. 66 OF 2019
WITH
APPLICATION FOR LEAVE TO APPEAL BY PRIVATE PARTY
NO. 65 OF 2019**

SACHIN S/O VASANT SHETE
VERSUS
VILAS BALASAHEB FULARE AND ANOTHER

...
Mr. P.P. Patni, Advocate h/f Mr. P.F. Patni, Advocate for Appellant
Mr. D.B. Bhange, APP for Respondent No.2/State
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 13th AUGUST, 2024

PER COURT :

1. By these applications filed under Section 378(4) of Code of Criminal Procedure, applicant seeks leave to file appeal against judgment and orders of acquittal dated 05/02/2019, passed by learned Judicial Magistrate, First Class, Shrirampur, Ahmednagar, in S.C.C. Nos.629/2012 and 628/2012, thereby acquitting respondent No.1 for offence punishable under Section 138 of Negotiable Instruments Act.
2. Heard learned advocate for appellant and learned APP for State. Perused the documents placed on record including impugned judgment and order of acquittal.
3. Trial Court has granted acquittal on the ground that applicant has failed to prove that he is proprietor of M/s. Shivshakti Traders, which has received cheque under the signature of accused.

Trial Court has observed that there is no evidence to show that complainant is one of the proprietors of Shivshakti Traders. In such circumstances, if complainant is not proprietor of Shivshakti Traders, even his father namely Vasant Shete C.W.2 has not given any authorization to him to file present complaint. Therefore, Trial Court was of the view that transaction between complainant and accused is doubtful, particularly when complainant has no nexus or connection with M/s. Shivshakti Traders.

4. Trial Court, therefore, has rightly come to conclusion that complainant had no authority to file complaint or/and on behalf of Shivshakti Traders. No fault can be found with the reasoning adopted by the Trial Court.

5. View taken by Trial Court is possible view which is not liable to be interfered with in the facts of present case. Applications being devoid of merit are dismissed.

(NITIN B. SURYAWANSHI, J.)