



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY NO. 118 OF 2019

Narayan S/o. Bhanudas Adsule

VERSUS

Natha S/o. Bhimrao Chatre

.....

Mr. C.V. Thombre, Advocate for Appellant

Mr. S.S. Jadhav, Advocate for the respondent

.....

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 04th SEPTEMBER 2024

ORDER :

1. By this application, applicant seeks leave to file appeal against the impugned order of acquittal dated 21.04.2018 passed by learned 19th Judicial Magistrate First Class, Aurangabad in S.C.C. No. 1435/2015.

2. Applicant/Complainant filed complaint under section 138 of Negotiable Instruments Act for dishonour of cheque of Rs. 10 Lakhs issued by the respondent/accused. While cross examination of complainant was going on and it was deferred to 20.01.2017, complainant failed to remain present. In spite of orders passed by the Trial Court on 08.11.2017, 22.11.2017, 13.02.2018 and 27.03.2018, no steps were taken by

Bhagyawant Punde

complainant to proceed with the complaint. Therefore, Trial Court dismissed the complaint for default under section 256 of Cr.P.C.

3. Heard learned advocate for applicant and learned advocate for respondent. Perused the documents placed on record and the impugned order.

4. It is the case of applicant that as there was communication gap between him and his advocate, he could not remain present for further cross examination. Taking into consideration the fact that applicant was diligently prosecuting the complaint filed in the year 2015 till the year 2017 and cheque amount is of Rs. 10 Lakhs, it is necessary in the interest of justice to grant fair opportunity to applicant to prove his case. In that view of the matter, this is a fit case to grant leave to file appeal. Hence, application is allowed.

5. Leave is granted to file appeal against order of acquittal dated 21.04.2018 passed by learned 19th Judicial Magistrate First Class, Aurangabad in S.C.C. No. 1435/2015.

6. Appeal be registered.

7. Appeal stands admitted.

Bhagyawant Punde

8. Learned advocate for respondent waives service.

[NITIN B. SURYAWANSHI, J.]