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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PRIVATE PARTY
NO.104 OF 2023

Amol Adinath Ghodke

APPLICANT

VERSUS

Nanasaheb Raghunath Patare and Others

RESPONDENTS

.....
Mr. Shubham Pawar h/f Mr. R. R. Karpe, Advocate for applicant
Mr. B. B. Bhise, APP for respondent - State
Mr. P. A. Bharat, Advocate for respondent No.2
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 24th JULY, 2024

ORDER :

1. By this application, applicant- complainant seeks leave to file appeal against the order of acquittal passed by learned Judicial Magistrate First Class, Court No.9, Ahmednagar in SCC No. 2276 of 2013.
2. SCC No. 2276 of 2013 filed under section 138 of the Negotiable Instruments Act by applicant against the respondents - accused, is dismissed under section 256 of the Criminal Procedure Code and respondents - accused are acquitted by the Trial Court.
3. Learned advocate for respondent No.2 strenuously opposed

the application, submitting that the complaint was filed in the year 2013 and the complainant was prolonging the matter and, therefore, the Trial Court is justified in dismissing the complaint and acquitting the accused in the year 2017.

4. Impugned order shows that the matter was listed for cross-examination of complainant and when it was called out, both the parties and their respective advocates were absent. Trial Court has observed that the advocates may be busy, but the parties ought to have remained present before the Court and the approach of the parties appears to be not diligent.

5. The complaint is filed for dishonour of cheque of Rs.5 lakh. Fair opportunity needs to be given to the applicant - complainant to prove his case.

6. Hence, the application is allowed in terms of prayer clause "B". Leave to file appeal is granted.

7. Appeal be registered. List the appeal for further consideration after two weeks.

**[NITIN B. SURYAWANSHI]
JUDGE**