



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

CRIMINAL APPLICATION NO.167 OF 2023

IN

CRIMINAL APPEAL (ST.) NO.193 OF 2023

(M/s Pankaj Agencies Vs. M/s Dinesh Lime Stores)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.G. Sarda, Advocate for the appellant.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- OCTOBER 1, 2024

The application is filed for grant of leave to prefer an appeal against acquittal passed by the J.M.F.C. Court No.4, Akola dated 23/11/2022 in S.C.C. No.3559/2013.

2. Learned Counsel for the appellant submitted that the acquittal by the learned trial Court is on the ground that the complainant has not proved that the goods were delivered against which the cheque was issued. He submitted that there was no such defence raised by the accused and for the first time while recording the statement under Section 313 of Cr.PC., this issue was raised. There was no cross-examination by the accused to that extent but the learned trial Court has considered the aspect which first time raised by the accused during the statement under Section 313 Cr.PC.

3. Though the accused is served with the notice, none appears for the accused, therefore, the application is

proceeded without his reply.

4. Heard learned Counsel for the appellant. Perused the impugned judgment from which it reveals that learned Counsel for the appellant has made out various arguable points including that without any defence raised during the cross-examination, the trial Court has considered that goods are not delivered, and therefore, the aspect of legal and enforceable debt is not made out. Thus, considering the various arguable points are in favour of the complainant, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) Leave is granted.

(ii) The application is allowed and disposed of accordingly.

(iii) The appeal be registered.

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The appeal can be disposed of at the admission stage.

2. Call for R. & P

3. The appeal be placed for final disposal after receipt of R. & P

(URMILA JOSHI-PHALKE, J.)