



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 87 OF 2024
IN CRIMINAL APPEAL STAMP NO. 787 OF 2024

Rajiv Wasant Golhar V/s Shabbir Husain Saraf

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

Court's or Judge's Order

Mr. Masood Shareef, counsel for the applicant/appellant

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 28/02/2024.

1. By this appeal, the appellant has challenged the judgment and order of acquittal passed by the 11th Joint Civil Judge, Senior Division and Additional Chief Judicial Magistrate, Nagpur in Summary Criminal Case No. 16756/2019, by which the respondent is acquitted from the charge under Section 138 of the Negotiable Instruments Act, 1881.

2. Learned counsel for the appellant submitted that the learned trial Court has not considered the presumption which is not rebutted by the respondent. The cheque was issued against the legally enforceable debt. Though the learned trial Court has observed that there was a transaction between the appellant and the respondent, however, while acquitting the accused it is held that the complainant failed to prove that there was legally enforceable debt, and the cheque was issued against the said debt.

3. He also invited my attention towards the evidence of the complainant and other witnesses and submitted that he has arguable points in the present appeal and therefore, leave is to be granted.

4. Notice of the said application though served upon the respondent, but appeared on behalf of the respondent. Considering the submission of the learned counsel for the appellant and the impugned judgment as well as depositions, which are placed on record. From the evidence, learned counsel for the appellant pointed out that he has many arguable points, therefore, leave is to be granted to the present appellant to prefer an appeal.

5. In view of that, Criminal Application (APPA) No.87/2024 is **allowed**. Leave is granted to file the appeal.

The criminal application is **disposed of**.

Criminal Appeal Stamp No. 787/2024

1. Heard.
2. **Admit.**
3. Call for record and proceedings.
4. Appeal be placed before the Court after receipt of the Record and Proceedings, and preparation of the paper-book.

[URMILA JOSHI-PHALKE, J.]