



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

**CRIMINAL APPLICATION (APPA) NO. 341 OF 2023
IN
CRIMINAL APPEAL (ST) NO. 2296 OF 2023**

Mahavir Dairy Products, Amravati

Vs.

Vinod Lakhanprasad Dubey

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Vijay A. Kothale, Advocate for appellant.

Ms. Aastha Sharma, Advocate for respondent.

CORAM : SMT. URMILA JOSHI PHALKE, J.

DATE : 03.08.2024

By preferring this appeal, the appellant has challenged the order of acquittal on the ground that the learned Trial Court erroneously held that the complainant has not proved the legal and enforceable debt. In fact, there was a business transaction between the complainant and the accused and the observation of the trial Court is contrary to the observation of the judgment of the Hon'ble Apex Court. He submitted that the appellant has many arguable points in the present appeal, in view of that, leave is granted.

2. Learned counsel for the respondent strongly opposed the said application and submitted that the learned trial Court has rightly considered that no document was filed to prove the legal and enforceable debt between the present applicant and the respondent. In view of that, no grounds are made out for grant of leave.

3. After hearing the learned counsel for the applicant and learned counsel for the respondent, perused the impugned judgment, from which, it reveals that the cheque was issued out of business transaction but the learned trial Court has not considered the same and acquitted the accused by observing that there was no legal and enforceable debt. The applicant has made out a case by showing many arguable points from the impugned judgment. In view of that, leave is to be granted. Accordingly, I proceed to pass following order :

ORDER

(a) Criminal Application (APPA) No.341/2023 is allowed and disposed of accordingly.

(b) Leave is granted to the applicant to file an appeal. On registration of the appeal, Ms. Aastha

Sharma, learned counsel waives service of notice on behalf of the respondent.

(c) The appeal can be disposed of at the admission stage.

(d) Call for record and proceedings from the trial Court.

Criminal Appeal (ST) No.2296/2023

Appeal be listed before this Court after receipt of record and proceedings.

(SMT. URMILA JOSHI PHALKE, J)