



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

CRIMINAL APPLICATION NO.858 OF 2023
IN
CRIMINAL APPEAL (ST.) NO.5594 OF 2023
(Anup Enterprises Vs. Chandrakant Rambhau Wandhare)

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

Court's or Judge's Order

Mr. A. Sawal, Advocate h/f Mr. H.R. Gadhia, Advocate for the applicant.
Mr. S.B. Trivedi, Advocate for the respondent.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 1, 2024

Heard.

2. By preferring this application, the applicant is seeking leave to file appeal against acquittal.

3. Learned Counsel for the appellant submitted that the respondent is acquitted only on the ground that the cheque return memo which is at Article-A and B, which carries no stamp, signature or official logo of the concern bank and the complainant has not examined the bank witness to prove the memo which does not bear the official mark of the bank. He submitted that on technical grounds the accused is acquitted. He has also pointed out from the impugned judgment that he has many arguable points in the present appeal.

4. Learned Counsel for the respondent strongly opposed the application on the ground that after sufficient opportunity the complainant failed to examine the official

of the bank and failed to prove the dishonour of the cheque for insufficient funds. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the impugned judgment from which it reveals that the acquittal is only on the ground that the bank official is not examined to prove the cheque return memo. Thus, it is apparent that on technical ground the learned trial Court has acquitted the accused without giving sufficient opportunity to the complainant. Thus, the complainant has made out a case for grant of bail by showing the arguable points. In view of that, leave is granted to the applicant to file an appeal.

6. The appeal be registered.

7. The application is allowed and disposed of accordingly.

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Heard.

2. Call for R. & P.

3. Place the appeal before the Court after receipt of R. & P. for final hearing.

(URMILA JOSHI-PHALKE, J.)