



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

CRIMINAL APPLICATION NO.736 OF 2024

IN

CRIMINAL APPEAL (ST.) NO.6559 OF 2023

(Madhavi Pandurang Vanjare Vs. Sau. Savita Rajesh Amrutkar @ Savita Ramesh Vir)

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

Court's or Judge's Order

Mr. R.R. Vyas, Advocate for the appellant.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- SEPTEMBER 26, 2024

By this application, the applicant is seeking leave to prefer and appeal against acquittal which is passed in S.C.C. No.271/2015.

2. The respondent though served, none appears.

3. Learned Counsel for the appellant pointed out from the impugned judgment that the accused is acquitted only on the ground that the name of the complainant was mentioned as a "Madhavi" instead of "Madhuri" on the cheque. He submitted that on the technical ground the accused is acquitted. On the contrary, burden is on the accused to rebut the presumption as far as the legal and enforceable debt is concerned.

4. Learned trial Court has not considered that the complainant has proved that there was legal and enforceable debt and the cheque was issued in discharge of legal and enforceable debt.

5. Though notice is issued to the accused, accused failed to repay the amount and thereafter complaint was filed. The evidence adduced before the Court sufficiently shows that the complainant proved the transaction before the trial Court but only on the technical ground that instead of “Madhavi” the name of “Madhuri” is mentioned on the cheque. Thus, learned Counsel for the appellant submitted that he has many arguable points in the present appeal and complainant be permitted to litigate his cause on its own merits.

6. Heard learned Counsel for the appellant. Perused the impugned judgment from which it reveals that there are many arguable points available for the complainant. It is further apparent that the learned trial Court has only considered the aspect that the name of the complainant is wrongly mentioned on the cheque and acquitted the accused.

7. In view of that, leave is granted to the appellant to prefer an appeal.

8. The application is disposed of.

9. The appeal be registered.

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On registration of the appeal, notice be issued to the respondent.

2. Call for R. & P.

3. The appeal can be disposed of at admission stage.
4. The appeal be listed for final disposal after receipt of the R. & P.

(URMILA JOSHI-PHALKE, J.)

**Divya*