



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

CRIMINAL APPLICATION (APPA) NO. 1181/2023 IN
CRIMINAL APPEAL STAMP NO. 8919/2023

MARTANDRAO BHASKARRAO DESHMUKH

VS

DNYANDEO JAGDEO PUNDE

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

Court's or Judge's Order

Mr. J.B.Gandhi, counsel for the applicant.

Mr. A.M. Tirukh, counsel for the respondent.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/01/2024

1. By preferring this appeal, the appellant has challenged the order of acquittal passed by the Judicial Magistrate First Class, Court No. 4 Akola.

2. Mr. J.B. Gandhi, learned counsel for the applicant submitted that while acquitting the accused, the Court has observed that the complainant has not filed on record the Postal Receipt, Postal Acknowledgment, Postal Letter to show that the notice is served on the correct address and it was received by the respondent. In fact, the notice is replied by the accused which is not taken into consideration by the trial court.

3. He further submitted that the reasons mentioned in the judgment, complainant failed to prove the offence under Section 138 of the Negotiable Instruments Act by proving the cheque was issued for discharge of legally enforceable debt and that was dishonoured, and is also

misconceived by the learned trial Court. Thus, the appellant has arguable points in the present appeal. In view of that, leave is granted.

4. Mr. A.M. Tirukh, learned counsel for the respondent has strongly objected the application, on the ground that the appeal is merit-less and deserves to be dismissed.

5. After hearing the learned counsel for the appellant and learned counsel for the respondent. After perusal of the impugned judgment and other documents, it reveals that the appellant has arguable points in the present appeal and therefore, opportunities is to be granted to the present appellant.

6. In view of that, application for leave to file is allowed.

7. The criminal application is **disposed of**.

Criminal Appeal _____/2023.

1. Heard.

2. **Admit.**

3. Mr. A.M. Tirukh, learned counsel for the respondent waives service of notice on behalf of respondent.

4. Call for record and proceedings.

5. The appellant to file paper-book within four weeks.

6. The appeal be placed before the Court after filing of the private paper-book and its verification.

[URMILA JOSHI-PHALKE, J.]