



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

APPLICATION FOR LEAVE TO APPEAL (PVT) NO.189 OF 2025

Santosh Bajrang Ughade

...Applicant

V/s.

Shamrao Bhikaji Jawanjal and Anr.

...Respondent

Mr. Ayush Singh (through VC) for the Applicant.

Mr. Ganesh Bhujbal for Respondent No.1.

Ms Ranjana Humane, APP for Respondent -State.

CORAM: SANDEEP V. MARNE, J.

DATED: 15 DECEMBER 2025.

P.C.:

1) This is an Application seeking leave to file Appeal against acquittal order dated 21 February 2025 passed by the learned Judicial Magistrate, First Class, Pune in Summons Criminal Case No.1662 of 2020. By the impugned Judgment and Order the learned Magistrate has acquitted the Respondent of offences punishable under Section 138 of the Negotiable Instruments Act, 1881 (the NI Act).

2) I have heard Mr. Singh, the learned counsel appearing for the Applicant, Mr. Bhujbal, the learned counsel appearing for the Respondent. I have gone through the findings recorded by the learned Magistrate in the impugned acquittal order.

3) The case of the Applicant-Complainant is that hand loan of Rs.16,00,000/- was paid to the Respondent-accused and the subject cheque was issued towards repayment of the amount of the said hand loan. It is the case of the Applicant that the amount of Rs.16,00,000/- was divided into Rs.6,00,000/- paid to Respondent No.1 on 3 January 2016, Rs.5,00,000/- paid to Mahadev Chavhan vide cheque dated 6 February 2016 at the instance of the RespondentNo.1-accused and Rs.5,00,000/ paid to the accused vide cheque dated 11 April 2016. However, during the course of evidence Applicant-Complainant admitted that he had received amount of Rs.2,50,000/- from Mr. Mahadev Chavan and that the said amount of Rs.2,50,000/- was paid by Mr. Mahadev Chavan towards repayment of hand loan facility extended to the Respondent No.1. However, Applicant-Complainant suppressed the factum of having received amount of Rs.2,50,000/- from Mr. Mahadev Chavan. It is only in the cross-examination that he admitted having received amount of Rs.2,50,000/- from Mr. Chavan. Thus, there was no underlying liability for the Respondent No.1-accused to repay the entire amount of Rs.16,00,000/- to the Applicant-Complainant. In that view of the matter, learned Magistrate has rightly held that the presumption raised against the Respondent No.1-accused under Section 139 of the NI Act has been successfully rebutted. In absence of an underlying liability to pay the amount covered by cheque, offence under Section 138 of the NI Act was not made out.

4) Considering the above position, in my view grant of leave to file appeal against acquittal would be an exercise in futility. Findings recorded by the learned Magistrate are well supported by the evidence

on record and do not suffer from vice of perversity. No case is made out for grant of leave to file appeal.

5) The Application is accordingly **rejected**.

**[SANDEEP V. MARNE, J.]**