IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO.136 OF 2025

Mohan s/o Uttamrao Deshmukh,
Age: 49 years, Occu.: Business,
R/o. C-20, Abhisheknagar,
Taroda (Bk.), Nanded. **.. Applicant**

Versus

1. P. M. Engineers and Contractors
Pandit Complex, Bhausar Chowk,
Malegaon Road, Nanded,
Through its partners,

A) Pramod s/o Baburao Masge (deceased),
Age: Major, Occu.: Business,
R/o. Labhnagar, Malegaon Road,
Nanded.

B) Kailash Mahewar,
Age: 45 years, Occu.: Business,
R/o. Ayodhya Nagari, Malegaon
Road, Nanded. **.. Respondents**

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Mr. G. K. Muneshwar, Advocate for the applicant.
Mr. Prathamesh S. Kundalwadikar, Advocate for respondent No.1(B).

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 05.10.2026
Pronounced on : 08.10.2026

ORDER :-

1. Instant leave to file appeal is on behalf of original complainant on account of acquittal of respondent-original accused from charge under Section 138 of the Negotiable Instruments Act Act, 1881 (for short, “the NI Act”).

2. Learned counsel for the applicant would point out that, complainant and accused were businessmen and having friendly relations. That, respondent accused obtained hand loan to the tune of Rs.9,50,000/- from complainant. That, respondent accused assured to repay the same, but only on persuasion, they issued cheque which was presented with complainant's bank. Learned counsel pointed out that, complainant was not aware of the merger of the bank, of which cheque was drawn by accused, with new bank i.e. merger of State Bank of Hyderabad into State Bank of India. That, the cheque when put to realization, was returned with remark as 'balance insufficient'. Learned counsel pointed out that liability was not denied. Equally, issuance of cheque and signature over it was not disputed. However, learned trial court rejected complainant's case by holding that cheque itself was invalid. That, on this sole ground accused has been acquitted. Thus, according to him, complainant has a good case and as he intends to prefer appeal, he prays for leave.

3. Learned counsel for respondent-original accused pointed out that, the proceedings are already abated as against accused Pramod since he died prior to lodging complaint, i.e. on 20.06.2018. He would submit that, complainant was very much aware of the merger and there is admission to that extent in his cross. That, old cheque

books were recalled, but complainant failed to return the cheque book as well as cheque in question and therefore, after merger State Bank of Hyderabad was not in picture and consequently learned trial court rightly held that cheque was not valid.

4. Perused the record. It seems from the complainant's case that accused company, which is engaged in work of construction of roads and Government works, is a partnership firm of two accused, namely, Pramod and Kailash and they borrowed hand loan of Rs.9,50,000/- and towards repayment of the same, they issued cheque, but of State Bank of Hyderabad, and it was duly presented with complainant's bank i.e. Axis Bank for realization but it was returned with remarks as "funds insufficient". Legal notice as required under Section 138 of the NI Act seems to have been dispatched to the accused, but the same was not replied.

5. The said cheque in question is of 14.06.2018 which is at Exhibit 31, and the said cheque was dishonoured on 11.09.2018. While facing cross, complainant has admitted that the accused company did not borrow loan, but accused in personal capacity borrowed loan. It has come in the evidence of complainant's witness CW2 Pravin that, State Bank of Hyderabad had merged in State Bank of India and all

instruments and cheques were to be realized from State Bank of India. It is admitted that such merger was of 01.04.2017 i.e. much prior to issuance of cheque dated 14.06.2018. Witness has admitted about sending messages from the Bank to return and deposit the old cheque books and to obtain new cheque books. Even validity of the cheque books of State Bank of Hyderabad was extended for some time, is also admitted. There is admission that after 31.12.2017, all cheques of State Bank of Hyderabad had become invalid.

6. It appears from the impugned judgment that, learned trial court has relied on the judgments passed by the Andhra Pradesh High Court and Allahabad High Court, viz, ***Ganta Kavitha Devi v. State of Andhra Pradesh*** [LAWS (APH)-2024-10-78] and ***Archana Singh Gautam v. State of U.P. and another*** [2024: AHC: 102434], wherein view has been taken that cheques of all banks, which have merged with other bank, would be invalid cheques and no liability under Section 138 of the NI Act would be attracted post merger. Here, apparently, cheque in question was issued much after the merger, but no steps were taken to obtain new cheque. Rather, invalid cheque was put to presentation. In view of the law laid down by the Allahabad High Court as well as the Andhra Pradesh High Court, learned trial court committed no error in holding that the instrument in question was

invalid an thereby no liability under Section 138 of the NI Act would be attracted. No case being made out on merits, following order is passed :

ORDER

I. Leave is refused.

II. The Application is rejected.

[ABHAY S. WAGHWASE, J.]

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