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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.121 OF 2025

IN

CRIMINAL APPEAL NO.867 OF 2021 (F)

WIBRO CONSTRUCTION COMPANY, THR.

ITS PROP., K. ABDULLA

... APPLICANT

Versus

SHANTALA RAMDAS NAYAK

... RESPONDENT

Ms. Asha Desai with Mr. P. Silveira and Mr. S. Farizy,
Advocates for the Applicant.

Mr. Hrudaynath S. Shirodkar, Advocate for the Respondent.

CORAM:- ASHISH S. CHAVAN, J.

DATED :- 30th March, 2026

P.C.:

1. This is an application seeking leave to file Appeal arising out of an order and judgment dated 31.05.2021 passed by the learned Sessions Judge North Goa, Panaji in Criminal Appeal No.60/2015.

2. It is pertinent to note that the Appeal before the learned Sessions Judge North Goa arose out of the impugned judgment of conviction and sentence dated 31.03.2015 passed by the Learned J.M.F.C. 'B' Court, Mapusa wherein the Respondent was convicted of the offence punishable under Section 138 of Negotiable Instruments Act and sentenced to simple imprisonment of two months.

3. Heard the learned Counsel, Ms. Asha Desai for the Applicant and the learned Counsel, Mr. H. Shirodkar for the Respondent.

4. Perused the application and the accompanying Criminal Appeal.

5. On behalf of the Applicant/Appellant herein it is contended that the order of acquittal suffers from several infirmities. The statutory presumptions invoked under Section 138 and 118 of the Negotiable Instruments Act were not considered by the Appellate Court. Also the fact as to whether the complainant (the Applicant herein) had the capacity to advance the loan to the Accused (Respondent) is a subject matter of appreciation of evidence and it has been incorrectly appreciated by the Appellant Court.

6. The learned Advocate for the Appellant has also submitted that the aspect of whether the amount is required to be shown in the Income Tax Returns, is not an absolute proposition of law.

7. On the other hand, the learned Advocate for the Respondent urged that this is not a fit case for grant of leave to this case. He has supported the order of the Appellate Court and points out that there are no infirmities in the said order.

8. Heard.

9. Arguable questions are raised. Hence, the leave to Appeal must be granted.

10. Resultantly, the Criminal Miscellaneous Application No.121/2025 is allowed.

11. In terms thereof, Criminal Miscellaneous Application No.121/2025 stands disposed of.

ASHISH S. CHAVAN, J.