

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD

CRIMINAL APPLICATION NO. 2576 OF 2010

Dashrath Narayan Dhumal

...Applicant

VERSUS

Chandrakant Rangnath Shahane

...Respondent

.....

Shri Ram Deshpande, advocate for applicant

Shri D.R.Markad, advocate for respondent sole

.....

CORAM : SHRIHARI P.DAVARE, J.

DATED : 30th June, 2011

PER COURT :

1 Heard learned counsel for the parties. Shri D.R.Markad, learned counsel has filed affidavit in reply on behalf of the respondent and same is take on record.

2 This is an application preferred by the applicant (original complainant) seeking leave to file appeal, challenging the judgment and order, dated 22.4.2010 rendered by learned Additional Sessions Judge, Ahmednagar, in Criminal Appeal No. 72 of 2006 allowing the

said appeal and quashing and setting aside the judgment and order of conviction, dated 10.4.2006 passed by the Judicial Magistrate, First Class, (3rd Court) Ahmednagar in S.T.C. No. 1285 of 2000, and consequently, acquitted the respondent (original accused) for the offence punishable under Section 138 of the Negotiable Instruments Act.

3 In substance, there are two contrary findings i.e. the Trial Court convicted the accused; whereas the First Appellate Court acquitted the accused. Moreover, it is also material to note that the complainant had preferred Revision for enhancement of the sentence, wherein finding was given by the same Court as the Revisional Court that the conviction and sentence imposed upon the accused is legal and proper; whereas simultaneously, allowed the appeal preferred by the accused on the same day and set aside the said conviction and sentence, which apparently is contrary to each other.

4 Hence, matter requires consideration, and therefore, present application seeking leave to file appeal is allowed. Present application be treated as appeal.

5 Admit. Shri D.R.Markad, learned counsel accepts service

of notice for the respondent after admission.

6 R. and P. be sent back to the concerned court.

7 At the request of learned counsel for the parties, hearing of the appeal is expedited.

**(SHRIHARI P. DAVARE),
JUDGE.**

dbm/crap2576.10