



MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO. 391 OF 2019

Selvva M. Devendra ... Applicant

Vs.

The State Of Maharashtra and Anr. ... Respondents

AND

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO. 392 OF 2019

Selvva M. Devendra ... Applicant

Vs.

The State Of Maharashtra and Anr. ... Respondents

AND

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO. 393 OF 2019

Selvva M. Devendra ... Applicant

Vs.

The State Of Maharashtra and Anr. ... Respondents

AND

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO. 394 OF 2019

Selvva M. Devendra ... Applicant

Vs.

The State Of Maharashtra and Anr. ... Respondents

AND

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO. 395 OF 2019

Selvva M. Devendra ... Applicant

Vs.

The State Of Maharashtra and Anr. ... Respondents

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AND

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO. 396 OF 2019

Selvva M. Devendra ... Applicant

Vs.

The State Of Maharashtra and Anr. ... Respondents

AND

APPLICATION FOR LEAVE TO APPEAL (PVT.) NO. 397 OF 2019

Selvva M. Devendra ... Applicant

Vs.

The State Of Maharashtra and Anr. ... Respondents

Mr. Rahul Arote for the Applicant.

Mr. H. J. Dedhia, APP for the State.

CORAM : GAURI GODSE, J.

DATED : 10th OCTOBER 2025

ORDER:

1. These applications are filed under Section 378(4) of Criminal Procedure Code ('Cr.P.C.') by the original complainant seeking leave to file an appeal against the order passed by the learned Magistrate acquitting respondent no.2 for the offence punishable under Section 138 of the Negotiable Instruments Act. Since different cheques were dishonoured, separate complaints were filed. The evidence led by the parties is similar. However, the judgments were separately passed in different complaints. The similar evidence

is placed on record in all the complaints. Hence, all these applications are decided by this common order.

2. Learned counsel for the applicant submits that the complainant is holding a money lending license and from time to time amounts were disbursed by way of loan to the accused totally amounting to Rs.39 Lakhs. The accused had signed a promissory note on 8th December 2010 to the extent of Rs. 10 Lakhs. He submits that the cheque amounts dishonoured were towards the repayment of the loan. He points out that the accused has not disputed receipt of the loan amount from the complainant and the execution of the promissory note. He submits that there is no evidence on record to rebut the presumption under Section 139 of the Negotiable Instruments Act, that the cheques were issued towards the legally enforceable debt. Hence, respondent no.2 is liable to be convicted for the offence punishable under Section 138.

3. I have perused the papers of the application. The complainant has relied upon a promissory note dated 8th December 2010 executed by the accused for an amount to the extent of Rs.10 Lakhs with 1.5% interest payable to the complainant. The accused has produced on record evidence to show that he had repaid the amount. The particulars about the repayment are produced on

record. The record shows that after the execution of the promissory note, some amounts were paid by the accused. The complainant has admitted that he has not produced on record any books of accounts to show the exact amount due and payable by the accused after the amounts were paid by the accused. The complainant also admitted that he has not verified the Bank details for the purpose of ascertaining the exact amount due and payable by the accused.

4. Considering the evidence led by the accused to show that the certain amounts were repaid by him and the complainant has not accounted for the same, the trial Court held that the dishonoured cheques cannot be presumed towards the legally enforceable debt. Since the presumption is rebutted by the accused by producing evidence regarding repayment and considering the admissions given by the complainant in the cross-examination, the trial Court has acquitted respondent no.2.

5. Considering the evidence on record, the view taken by the trial court is a plausible view that could have been taken based on the evidence on record. There can be interference in an appeal against acquittal if, after reappreciation of evidence, the only conclusion that could be drawn is that the guilt of the accused is

proved beyond a reasonable doubt. In the present case, there is no ground for granting leave to file an appeal against the orders of acquittal.

6. The Applications are, therefore, dismissed.

(GAURI GODSE, J.)