

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/CRIMINAL MISC.APPLICATION (FOR LEAVE TO APPEAL) NO. 22370
of 2023

In R/CRIMINAL APPEAL NO. 2814 of 2023
With
R/CRIMINAL APPEAL NO. 2814 of 2023

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RELIANCE INDUSTRIES LTD THRO POA HARDIKBHAI PRAFULCHANDRA
DAVE
Versus
STATE OF GUJARAT

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Appearance:

MR DHARMESH DEVNANI FOR NANAVATI ASSOCIATES(1375) for the
Applicant(s) No. 1

for the Respondent(s) No. 2,3,4

MS VRUNDA SHAH, ADDL.PUBLIC PROSECUTOR for the Respondent(s)
No. 1

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CORAM: HONOURABLE MRS. JUSTICE M. K. THAKKER

Date : 21/12/2023

ORAL ORDER

ORDER IN R/CRIMINAL MISC.APPLICATION (FOR LEAVE TO APPEAL)
NO. 22370 of 2023

1. Learned advocate Mr.Dharmesh Devnani submits that though the presumption, which is in favour of the complainant was not rebutted by the respondent-accused by leading the probable defence, learned trial Court had acquitted the respondent-accused. Learned advocate Mr.Devnani draws the attention of this Court with regard to the defence which was raised before the learned trial Court by the accused and submitted that multiple defence was raised by the respondent-accused that (1)

amount which is mentioned is wrongly calculated, (2) in the civil suit for which the recovery of the amount is filed where the different amount is stated and (3) due to the late supply of the goods, the respondent-accused incurred the loss of Rs.59,80,000/-.

2. Learned advocate Mr.Devnani submits that during the pendency of the trial, settlement was arrived between the parties and settlement pursis were placed on record below Exhibit-28 and Exhibit-29 and on perusing the said pursis, the respondent-accused had stated that towards the part payment the four cheques and one demand draft were issued for the amount of Rs.30 Lakh. Learned advocate Mr.Devnani submits that it is not in dispute that aforesaid cheques were honored, but that cheques were with regard to the part payment of the total dues. Learned trial Court had acquitted the respondent-accused relying on the bare words of the respondent-accused of his defence without proving the same by producing the evidence, which may be in the nature of preponderance of probabilities.

3. Learned advocate Mr.Devnani submits that issuance of

the cheque and signature on the cheque was not disputed by the respondent-accused however, learned trial Court had acquitted the respondent-accused without any cogent reason.

4. In view of the above submissions, this Court deems it fit to allow this application seeking leave to prefer an appeal. Hence, present application is allowed. Leave to prefer an appeal is granted.

ORDER IN R/CRIMINAL APPEAL NO. 2814 of 2023

1. The appeal is admitted. Learned APP Ms.Vrunda Shah waives service of notice of admission on behalf of respondent-State.
2. Issue Bailable Warrant in the sum of Rs.5,000/- (Rupees Five Thousand Only) against the respondent-original accused.
3. Record and Proceedings shall be called for. Matter be listed in seriatim.

M.M.MIRZA

(M. K. THAKKER,J)