

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No(s). 335/2011

KAMAL CHATURBHUJI MANDHANIA
ant(s)

Appell

VERSUS

RAJESH MADHUKARRAOJI TOTE
dent(s)

Respon

O R D E R

We have learned counsel appearing for the appellant.

None appears for the sole respondent despite completion of service on him.

The grievance of the appellant in this appeal is that the leave to appeal has been refused by the High Court and thereby the appellant lost his valid chance to have an appeal before the High Court. For this reason only, this appeal has been preferred by the appellant.

The facts of the case shortly is that the respondent issued a cheque dated 30-12-1998 which was subsequently revalidated on 30-12-2002. It appears that the appellant cross-examined the witness from the Bank who attested the change of date which does not tally with the specimen signature with the Bank. But it is a fact that the only reason mentioned for dishonouring of the cheque by the Bank was "exceeds arrangement". In this circumstances, the leave was refused by the High Court. It appears to us that by such refusal, the appellant has lost his right even to be heard before the High Court on the question of law as well as on facts.

In this circumstances, we feel that it would do complete justice to the parties if the leave is granted to the appellant
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to
Vishal Anand
Date: 2015.08.28
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proceed with the appeal before the High Court.

Both the
Reason:

parties shall be at liberty to place their facts so that the question can be decided by the High Court on law.

In view of that, we set aside the order dated 1-4-2009 so passed by the High Court of Judicature at Bombay, Nagpur Bench, Nagpur and remand the matter back to the High Court for hearing. The appeal is allowed in the afore-stated terms.

.....J
(PINAKI CHANDRA GHOSE)

.....J
(R.K. AGRAWAL)

NEW DELHI;
20TH AUGUST, 2015.

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ITEM NO.107

COURT NO.12

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 335/2011

KAMAL CHATURBHUJI MANDHANIA

Appellant(s)

VERSUS

RAJESH MADHUKARRAOJI TOTE

Respondent(s)

Date : 20/08/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PINAKI CHANDRA GHOSE
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Appellant(s)

Mr. Gagan Sanghi, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The Criminal Appeal is allowed in terms of the signed order.

(VISHAL ANAND)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER

(Signed Order is placed on the file)