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**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

**BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH**

ON THE 24th OF APRIL, 2024

MISC. CRIMINAL CASE No. 48583 of 2019

BETWEEN:-

**SMT. RAJU BAI JAT W/O SHRI SUNDER LAL JAT, AGED
ABOUT 55 YEARS, VILLAGE TALWADA, (MADHYA
PRADESH)**

.....APPLICANT

(MS. RAVINA BAIRAGEE - ADVOCATE)

AND

**MAHENDRA JAT S/O PARAS RAM JAT, AGED ABOUT 35
YEARS, OCCUPATION: KHETI VILLAGE RAMPURIYA
KHURD, TEHSIL MHOW, POST MANPUR (MADHYA
PRADESH)**

.....RESPONDENTS

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*This application coming on for orders this day, the court passed the
following:*

ORDER

Heard.

This application has been filed under Section 378(4) of Cr.P.C., 1973 for grant of leave to file appeal against the judgement of acquittal dated 30.09.2019 passed by the Court of JMFC, Dhar in Case No. SC-NIA/208/2017, whereby learned JMFC has acquitted the non-applicant for an offence punishable under Section 138 of the Negotiable Instruments Act solely on the ground that the cheque issued in pursuance of compromise did not attract provisions of 138 of the NI Act.

2. Counsel for the applicant referring to the judgement passed by the Apex Court in the case of *M/s. Gimpex Private Limited vs. Manoj Goel., 2021 (3) DCR 37*, so also the judgment passed in the case of *Lalit Kumar Sharma & others vs. State of U. P., 2008 (5) SCC 638* submitted that facts of the aforesaid case are entirely different from the present case. In the aforesaid matter, observations with regard to the provisions of Section 138 of NI Act were made in respect of second compromise made between the parties during pendency of the case while the facts of this case are different, wherein cheques in dispute were given by the non-applicant in pursuance of compromise arrived at between the parties with regard to the ancestral property.

3. On due consideration of the impugned judgment and reasoning assigned by learned Trial Court, I am of the view that it is a fit case in which permission for grant of leave to appeal can be allowed, meaning thereby, the matter has to be admitted for final hearing. Accordingly, application filed by the applicant under Section 378(4) of Cr.P.C. is allowed and permission for grant of leave to appeal is granted. सत्यमेव जयते

4. Office is directed to register it as criminal appeal.

5. Appeal filed as a consequence of this order be registered and proceeded as per rules, as admitted.

6. Let a bailable warrant in the sum of Rs.20,000/- be issued against the non-applicant for his appearance before the Registry of this Court on **30.05.2024.**

7. With the aforesaid, M.Cr.C. No.48583/2019 is allowed and is accordingly, disposed of.

Certified copy, as per rules.

sumathi

