

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.534 OF 2013

Mukesh s/o Chainsukhji Jain,
Age-49 years, Occu:Proprietor,
Ashinsa Tractors Parbhani,
Through his General Power of
Attorney Holder,
Siril Wargish,
Age-34 years, Occu:Private Service,
R/o-Parbhani, Tq. & Dist-Parbhani.

...APPLICANT
(Orig. Complainant)

VERSUS

Mansab Khan s/o Sultan Khan Pathan,
Age-34 years, Occu:Agril.,
R/o-Renapur, Tq-Pathri,
Dist-Parbhani.

...RESPONDENT
(Orig. Accused)

...
Mr.Ramraje A. Deshmukh Advocate h/f. Mr. S.S.
Thombre Advocate for Applicant.

...

CORAM: A.I.S. CHEEMA, J.

DATE : 20TH JANUARY, 2015

ORDER :

1. Heard learned counsel for the Applicant.

Perused record.

2. The learned counsel for the Applicant-original complainant is submitting that the impugned order dated 27th November 2012 passed in S.C.C. No.1294 of 2009 may be set aside and an opportunity may be given to the Applicant-original complainant to contest the complaint under Section 138 of the Negotiable Instruments Act. According to the counsel, the complainant was making all necessary efforts so that there is progress in the complaint, but the trial Court ignored the steps taken and for absence of some period, the complaint came to be dismissed. Learned counsel is referring to the contents of the complaint to stress that in the interest of justice, the present Application needs to be entertained against the order which has the effect of acquittal.

3. I have gone through the Roznama of the

matter. It was a complaint which was filed on 16th November 2009. It does not appear that complainant succeeded to serve accused. The Roznama shows progress on the part of the complainant on 1st November 2011 and thereafter for various dates the complainant and his Advocate were absent. On 10th October 2012 the trial Court passed order below Exhibit 1 that the complainant and his Advocate are absent and no steps had been taken since April, 2012. The trial Court posted the matter for dismissal order. Even on the adjourned date of 27th November 2012 the complainant and his Advocate were absent and consequently the trial Court proceeded to dismiss the complaint.

4. The Applicant-original complainant is unable to show any good reason as to how the absence, specially from April 2012 till November 2012, could be justified. It was an old matter and if the complainant does not come forward, the

impugned order could not be said to be illegal.

5. On the request of the counsel for Applicant, I have also perused the complaint to see if the cause of justice would justify ignoring lapses of Complainant. I find that even if the complaint is kept in view, interest of justice does not require ignoring lapses of Complainant. There is no reason to interfere in Order of acquittal.

6. There is no substance in the Application. The Criminal Application stands rejected.

[A. I. S. CHEEMA, J.]