

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1071 OF 2015

Smt. Archana w/o Nitin Shinde,
Age : 27 years, Occu. Service,
R/o Umrade (Jahangir), Taluka
and District Beed

APPLICANT

VERSUS

1. Jaiambika Shikshan Prasarak Mandal,
Aurangabad, through its President
Kalidas s/o Devidas Kate,
Age : 42 years, Occu. Business,
R/o Rashtriya Vidyalaya,
Sanjay Nagar, Behind Smashan Maruti,
Aurangabad
2. Jaiambika Shikshan Prasarak Mandal,
Aurangabad, through its Secretary
Chhagan s/o Devidas Kate,
Age : 40 years, Occu. Business,
R/o Rashtriya Vidyalaya,
Sanjay Nagar, Behind Smashan Maruti,
Aurangabad

RESPONDENTS

Mr. P.S. Dighe, Advocate for the applicant
Mr. D.K. Dagadkhair, Advocate for the respondents

CORAM : M.T. JOSHI, J.
DATE : 21/09/2015

ORAL ORDER :

1. Heard both sides.
2. The record would show that since the

respondents remained absent in the trial court in the complaint proceedings under section 138 of the Negotiable Instruments Act, the present applicant was required to get non-bailable warrant issued against them. The report from the police, however, did not reach on many occasions and on some occasions, the applicant remained absent. Ultimately, the learned Judicial Magistrate First Class dismissed the complaint. The report, however, did never reach from the police station.

3. Considering all the facts on record that the present applicant is prosecuting his claim of dishonour of the cheque valued at Rs. 1,55,000/- and finding that the present respondents never appeared in the proceedings, leave to file the appeal is hereby granted.

4. The appeal be registered as per due procedure of law.

5. With consent of both sides, the appeal is also heard and stands admitted upon its registration.

. For the reasons already forwarded hereinabove, the appeal is allowed. The impugned order dated

15.01.2014, passed by the Judicial Magistrate First Class, Beed is hereby quashed and set aside.

. Instead, the matter is remanded to the learned Judicial Magistrate First Class, Beed to proceed with the case as per the provisions of law.

6. Both the parties are directed to appear in the trial court on 28th October, 2015.

7. It is necessary to observe that in case the police would not send any report, the learned Judicial Magistrate First Class has ample powers to deal with the concerned police official/s. With these directions, both - the criminal application and the criminal appeal stand allowed and disposed of accordingly.

[M.T. JOSHI]
JUDGE

npj/criapln1071-2015