

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1425 OF 2015

Prashant s/o Shriram Rathi,
Age : 38 years, Occu. Business,
R/o Flat No. 5, Shriram Apartment,
Fakirwadi, Diwan Deodi Road,
Aurangabad

APPLICANT

VERSUS

Ritesh s/o Rajendra Kankriya,
R/o House No. 1-1-58,
Miti Apartment, Nawabpura,
Aurangabad

RESPONDENT

Mr. S.S. Dambe, Advocate holding for Mr. N.T.
Tribhuwan, Advocate for the applicant
Mr. P.P. Khandagale-Patil, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 21/10/2015

ORAL ORDER :

1. Heard both sides.
2. Considering the history of the progress in the proceeding under section 138 of the Negotiable Instruments Act and its ultimate dismissal in default and finding that the present applicant-complainant remained absent only twice in the proceeding, in my view, the impugned order is required to be set aside.

. In the circumstances, leave to file appeal is hereby granted. The present application is accordingly allowed. The appeal be registered as per due procedure of law.

3. Upon registration of appeal, it stands admitted and heard.

4. For the reasons already forwarded, the appeal is allowed. The impugned order is hereby set aside. The complaint (S.C.C. No. 4186/2013) is restored to the file of the learned Judicial Magistrate First Class, Aurangabad, who shall proceed with the case in accordance with law.

5. Both the parties are directed to appear before the learned Judicial Magistrate First Class, Aurangabad on 23rd November, 2015.

. The present application as well as appeal stand disposed of.

[M.T. JOSHI]
JUDGE