

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1713 OF 2015

Mahatma Phule Nagari Sahakari
Pathsanstha Maryadit, Ahmednagar,
Taluka and District Ahmednagar,
through its Authorized Signatory
Balasaheb s/o Malhari Dhadge,
Age : 34 years, Occu. Service,
R/o Bhingar, Taluka and District
Ahmednagar

APPLICANT

VERSUS

1. Eknath s/o Asaram Ambekar
Age : Major, Occu. Business,
R/o Ambekar Cycle Mart,
Near Vishal Temple, Maliwada,
Tq. and District Ahmednagar

2. The State of Maharashtra

RESPONDENTS

Mr. R.S. Kasar, Advocate for the applicant
Mr. N.C. Garud, Advocate for respondent No. 1
Mr. V.S. Badakh, A.P.P. for the respondent No.2/State

CORAM : M.T. JOSHI, J.

DATE : 21/10/2015

ORAL ORDER :

1. Heard both sides.

2. The true copy of rojnama maintained by the
learned Judicial Magistrate First Class, Ahmednagar in
the case (S.T.C. No. 472/2008) is accepted on record and

marked "X" for the purpose of identification.

3. The record would show that since present respondent No. 1 remained absent for considerable period, time and again warrants were issued against him. Those warrants, however, could not be served on him and ultimately, finding that the present applicant-complainant did not take any step for again issuing non-bailable warrant against respondent No.1, the complaint filed for the offence punishable under section 138 of the Negotiable Instruments Act was dismissed by the learned Judicial Magistrate First Class.

4. It is no doubt true that the case was old enough. However, the complainant cannot be penalized for the same. In that view of the matter, leave to file appeal is hereby granted. The application is accordingly allowed. Office to register the appeal as per due procedure of law.

5. Upon registration of the appeal, it stands admitted and heard. For the reasons already forwarded, the appeal is allowed. The impugned order passed by learned Judicial Magistrate First Class, Ahmednagar in

S.T.C. No. 472/2008 is set aside. The complaint (S.T.C. No. 472/2008) is restored to the file of learned Judicial Magistrate First Class, Ahmednagar, who shall proceed with the proceeding in accordance with law.

6. Both the parties are directed to appear before the learned Judicial Magistrate First Class, Ahmednagar on 26th November, 2015.

. The application as well as appeal stand disposed of.

[M.T. JOSHI]
JUDGE

npj/criapln1713-2015