

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2618 OF 2015
(Sandeep Babanrao Mahale Vs. Pratap Jaising Deshmukh and another)

Mr. Vinod Y. Bhide, Advocate for the applicant
Mr. S.T. Shelke, Advocate for respondent No. 1
Mr. P.N. Muley, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 02/09/2015

ORAL ORDER :

1. Heard both sides.
2. The present application for leave to file appeal is filed by the original complainant whose complaint for the offence punishable under section 138 of the Negotiable Instruments Act was dismissed by the learned Judicial Magistrate First Class, Sangamner, as the applicant/complainant remained absent for having his cross-examination.
3. The reasoning of the learned Judicial Magistrate First Class would show that the case was five years old and despite granting sufficient opportunity, the applicant/complainant remained absent.

4. The history of the case would show that on the request of both sides twice, the matter was referred to the Lok-Nyayalaya. Thereafter, the applicant filed an affidavit in lieu of examination-in-chief. The respondent No.1/accused remained absent and sought adjournment after adjournment. For last few dates, the applicant/complainant also remained absent and finding that the case was five years old, the learned Judicial Magistrate First Class dismissed the complaint and acquitted the respondent No.1.

5. Considering the fact that the present applicant/appellant is litigating the issue of the offence for dishonour of cheque of Rs. 2,10,000/-, in my view, sufficient case is made out for grant of leave to file appeal and also for allowing the appeal and remanding the case to the learned Judicial Magistrate First Class with a direction to both sides not to ask for adjournment and to see that the case would be decided within a period of four months from the date of appearance of the parties. In the circumstances, leave to file appeal is hereby granted. The office to register the appeal as per due process of law.

6. Upon registration of the appeal, it stands admitted and heard. The order dated 17th March, 2015, passed by the learned Judicial Magistrate First Class, Sangamner in S.T.C. No. 418/2008 is hereby set aside and the case is remanded back to the learned Judicial Magistrate First Class, Sangamner for fresh decision according to law.

7. The parties are directed to appear before the learned Judicial Magistrate First Class, Sangamner on 7th October, 2015. The learned Judicial Magistrate First Class is requested to take efforts for decision in the case within a period of four months from the date of appearance of the parties. In case any adjournment is sought by any of the parties, except for any exceptional circumstances, the learned Judicial Magistrate First Class shall be very stringent in granting adjournment, either by fixing the date within a week or by imposing substantive costs.

8. The present Application as well as Appeal stand disposed of.

[M.T. JOSHI]
JUDGE