

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4077 OF 2014

The Nandurbar Marchant
Co-operative Bank Ltd., through
its Chief Executive Officer
Shri.Kalidas s/o. Ramdas Pathak,
Age 50 years, occ. service,
r/o. Ghee Bazar, Nandurbar ..Applicant

Versus

Shree Rekhai Stone Crusher,
through Mahendra Somaji Patil,
Age Major, Occ.Business and Agri.,
r/o. Arvind Nagar, infront of
Jijamata College, Waghoda Road,
Nandurbar ..Respondent

--

Mr.A.G.Magare, advocate for applicant

Ms.S.T.Pawar, advocate i/b. Mr.A.G.Talhar,
advocate for respondent

--

CORAM : M.T. JOSHI, J.

DATE : OCTOBER 15, 2015

PER COURT :

Heard both sides.

2] Perused the record. The complaint of present
applicant filed under Section 138 of the

Negotiable Instruments Act against the present respondent, was dismissed in default by learned Judicial Magistrate F.C.

3] The record would show that the respondent/accused, on many occasions, had failed to appear in the complaint initially, after service of summons and thereafter, despite issuance of non-bailable warrant. For one date prior to the impugned order, the complainant and his advocate remain absent so also, on the date of the impugned order. The non-bailable warrant issued to the respondent/accused was to be returned by the police.

4] Considering the facts on record and finding that present applicant/complainant is a Bank, who is pursuing its matter for recovery of amount of Rs.28 Lakhs and odd, in my view, leave to file appeal, needs to be granted.

5] In the circumstances, present application for grant of leave to file appeal, is hereby allowed. Leave to file appeal is granted.

6] Appeal be registered as per due process of law. Learned counsel for the respondents waives notice after registration of the appeal

7] Appeal is admitted.

8] Heard.

9] For the reasons already forwarded herein above, the appeal is allowed.

10] The impugned order passed by learned Judicial Magistrate F.C., is hereby quashed and set aside. Learned Judicial Magistrate F.C. to continue with the proceedings as per due procedure of law.

11] Both the parties are directed to appear before learned Judicial Magistrate F.C. on 23rd November, 2015.

12] Office is directed to send the Record and Proceedings to learned Judicial Magistrate F.C., forthwith.

[M.T. JOSHI, J.]

kbp