

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO. 567 OF 2014

**SHRI RAMESHWAR SAHAKARI SAKHAR KARKHANA LTD
RAOSAHEBNAGAR DIST JALNA**

VERSUS

BHAGWAN S/O DAGA JAT

...

Advocate for Appellant : Salunke Pradeep B

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CORAM : M.T.JOSHI,J.

DATED : 3RD DECEMBER, 2015

ORDER :-

Heard learned counsel for the appellant. None for the respondent though duly served. Vide order dated 22/9/2014 notice was directed to be reissued with indication that the appeal would be heard finally at the stage of admission, however, none appeared for the respondent.

2] Perused the order dated 5/9/2014 passed in Criminal Application No.6783/2013 by this Court i.e. the application granting leave to file appeal. The complaint of the present appellant for the offence u/s 138 of Negotiable Instruments Act was dismissed in default. The record shows that despite issuing various warrants against present accused respondent, police did not take any action for service of the warrant and they did not send any service report.

3] For the similar reasons, the present appeal is also allowed. The order of the learned JMFC dismissing the complaint and acquitting the respondent, is hereby set aside. Instead, complaint is restored to the file of the learned JMFC. Parties are directed to appear before the learned JMFC **on 5/1/2016**. Appeal is accordingly disposed of without any order as to costs.

(M.T.JOSHI,J.)

umg/