

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

910. CRI.APPLN/5181/2014 In CRI.APPLN/5180/2014 WITH
CRI.APPLN/5180/2014

MANAGING DIRECTOR, SHIVSHAKTI COOPERATIVE SUGAR FACTORY LTD.
TANDULWADI, DIST. OSMANABAD
V/S
PRADIP S/O BHAGAWAN JAMDAR

Mr. S.B. Choudhari, Advocate for applicant.

Mr. S.N. Surwase, Advocate for respondent.

CORAM : T.V. NALAWADE, J.
DATED : 29th July, 2015.

ORDER :

1. Criminal application No. 5181/2014 is filed for condonation of delay of 305 days caused in filing the proceeding for grant of leave under section 378 (4) of Cr.P.C. Respondent is acquitted in a private complaint filed for offence punishable under section 138 of Negotiable Instruments Act. Notice of the proceeding is served on the other side and one learned counsel Shri. Surawase has filed appearance for respondent. It is contended that after service of summons of the case, the accused did not turn up and then steps like issuing warrant were not taken and as further expected steps are not taken, the case was dismissed by the learned J.M.F.C. It was submitted that accused was playing tactics and complainant is suffering due to the tactics played by the accused. In view of these

circumstances and submissions made, this Court holds that sufficient cause is shown. The application is allowed. Delay is condoned.

2. In Criminal Application No. 5180/2014, heard the learned counsel for the applicant, original complainant. The application is filed for grant of leave to file appeal under section 378 (4) of Cr.P.C. It appears that the complaint is dismissed under section 256 of Cr.P.C. as necessary steps were not taken against the accused. It appears that summons was served on the accused, but he did not turn up. The complainant did not take further expected steps like issuing warrant. Thus, the matter is not decided on merits. In view of these circumstances, the application is allowed. Leave is granted.

3. Appeal is **admitted**. Notice after admission is made returnable on 7.9.2015. Call record and proceedings.

[T.V. NALAWADE, J.]

ssc/