

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

911. CRI.APPLN/5187/2014 In CRI.APPLN/5186/2014
WITH
CRI.APPLN/5186/2014

MANAGING DIRECTOR, SHIVSHAKTI COOPERATIVE SUGAR FACTORY TD.
TANDULWADI, DIST. OSMANABAD
V/S
AJIM NAVAB SHAIKH

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

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

ORDER :

1. Criminal Application No. 5187/2014 is filed for condonation of delay of 305 days caused in filing the proceeding under section 378 (4) of Cr.P.C. Notice of the present proceeding was served on the other side, but nobody has turned up. The complaint is dismissed under section 256 of Cr.P.C. by J.M.F.C. which was filed under section 138 of Negotiable Instruments Act. It appears that complainant did not take steps and due to this circumstance, the complaint came to be dismissed. The learned counsel for the applicant submitted that the blame can be put on the advocate and complainant is the cooperative sugar factory. In view of the contents of the application and submissions made, this Court holds that sufficient cause is shown. Application is allowed. Delay is condoned.

2. Criminal Application No. 5186/2014 is filed under section 378 (4) of Cr.P.C. for granting leave to file appeal against the order of dismissal of complaint filed under section 138 of Negotiable Instruments Act made by the learned J.M.F.C., Washi. Complaint is dismissed under section 256 of Cr.P.C. It appears that the advocate did not take steps and he remained absent. As the matter is not decided on merits and as the complaint is filed by cooperative sugar factory, this Court holds that leave needs to be granted. 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/