

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

CRIMINAL REVISION APPLICATION NO. 264 OF 2014

The Maharashtra State Co-operative
Cotton Gowers' Marketing Federation Ltd.,
Through its I/C. Zonal Manager,
Nanded

...Applicant

versus

Anil s/o Gangadharrao Bhojraj,
Age: 50 years, Occu: Owner of Pournima
Ginning & Pressing Factory at Dharmabad,
Tq. Dharmabad, Dist. Nanded

...Respondent

.....
Mr. S. T. Shelke, Advocate for applicant
Mr. S. R. Deshpande, Advocate for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 15th SEPTEMBER, 2015

ORAL ORDER :

Heard respective Counsel for the parties.

2. By an order dated 17/07/2010, learned J.M.F.C., Bhokar has summoned respondent-accused, who was required to face trial for the offence punishable under Sections 420, 406 of the Indian Penal Code. On 12/06/2013, the complaint preferred by present applicant came to be dismissed, as neither complainant nor its lawyer attended the proceeding in spite of issuance of notice to the complainant to appear before the Court. As such, present

proceedings.

3. Mr. Shelke, learned Counsel for the applicant would urge that, the applicant being statutory corporation is required to be pursue the matter through its employee and at the relevant time the application was filed through Ramrao Abasaheb Lahankar, employee, who stood retired during the pendency of the proceedings. According to him, lawyer, who was engaged to conduct the proceedings, has also not attended the same, as such, the order dated 12/06/2013 came to be passed by dismissing the complaint.

4. Drawing support from the judgment of the Apex Court in the case of **Rafiq & Anr. Vs. Munshilal & Anr.** reported in **AIR 1981 1400**, he would urge that the conduct of the lawyer should not cause any loss to the litigant and further urged that, the applicant being statutory corporation, which acts in the aid of farmers, last chance be granted to the applicant to prosecute the complaint.

5. Mr. Deshpande, learned Counsel for the respondent-accused, would urge that, the Court, while issuing the summons to the present respondent, though was alive of the fact as regards filing of “ C “ Summery, has granted an opportunity to the applicant to prosecute the complaint. The applicant has repeatedly remained

absent, which has prompted the Court to pass the order of dismissal, which according to Mr. Deshpande, learned Counsel for the respondent, is not required to be interfere with, as the applicant was not diligent. He would further urge that, the Court notice was issued to the applicant, which was not responded to.

6. From the above referred rival contentions of the parties, it is required to be noticed that, there is specific ground raised in paragraph Nos. 3 and 4 of the present application that, advocate engaged has not attended the proceedings and the employee, who was authorized to file complaint, stood retired. The facts are not controverted by the respondent herein.

7. In view of the judgment of the Apex Court in the matter **Rafiq & Anr. Vs. Munshilal & Anr.**, cited supra, it will be appropriate, in my opinion, to grant one chance by setting aside the order dated 12/06/2013, subject to payment of costs of Rs. 3,500/- (Rs. Three Thousand Five Hundred) to be paid by the applicant herein to respondent-accused before J.M.F.C., Bhokar within six weeks from today.

8. Regular Criminal case No. 39 of 2008, as such, stood restored to the file of learned J.M.F.C., Bhokar. It is clarified that, in

case, the amount of cost, as ordered is not deposited within time stipulated, this order shall stand withdrawn. The complainant and accused shall appear before the learned J.M.F.C., Bhokar on 26/10/2015. If the accused fail to appear before the same Court, the learned J.M.F.C., Bhokar will be at liberty to take such steps as are available in law, for securing the presence of the accused.

9. Criminal Revision Application stand allowed in above terms.

[N.W. SAMBRE, J.]