

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 7025 OF 2014

Shri Kedareshwar Sahakari
Sakhar Karkhana Ltd.,
At Suman Nagar, Post Bodhegaon,
Tq. Shevgaon, Dist. Ahmednagar
Through its authorized Officer
Shri Mukund Shivaji Mahajan,
Age : 39 years, Occu.: Service,
R/o. At Bodhegaon, Tq. Shevgaon,
District Ahmednagar

.. Applicant

Vs.

1] The State of Maharashtra

2] Balu S/o Lala Jadhav,
Age : Major, Occu.: Labour Contractor,
R/o Lonawala, Post Behnda Takli,
Tq. Georai, Dist. Beed (Orig. Accused) .. Respondents

Mr. V.B. Jadhav, Advocate i/b. Mr. A.V. Hon, Advocate for
applicant
Mr. U.S. Mote, A.P.P. for respondent-State
Mr. B.S. Kudale, Advocate for respondent no.2

CORAM : M.T. JOSHI, J.
DATE : 25/08/2015

ORAL ORDER :

Heard both sides.

2. Aggrieved by the discharge of the respondent
no.2 from the offence punishable under section 138 of
the Negotiable Instruments Act due to the non-appearance

of the present appellant-complainant in the proceedings, the applicant wants to file appeal and, therefore, the present application for leave to file appeal.

3. The record would show that the present respondent no.2 has appeared once and, thereafter, continued to remain absent. Therefore, time and again, bailable warrants were issued against him. However, the Police authorities did not serve them. Ultimately, fed up with the same, the applicant sought atleast notice to the respondent no.2 by Registered Post A.D. through the Court, however, the acknowledgment also did not reach to the Court. After taking all these pains for months together, when ultimately, the appellant/applicant remained absent for two dates, the complaint came to be dismissed.

4. In view of these facts, the application for leave to appeal deserves to be allowed. Criminal Application is accordingly allowed. Appeal be registered as per due procedure of law.

5. Appeal stands admitted. Learned A.P.P. and learned counsel for respondent no.2 waives notice, upon

admission of the appeal.

6. Heard both sides in the appeal also.

7. For the reasons already forwarded, the appeal is allowed. The order of the learned Judicial Magistrate First Class, Shevgaon dated 27/6/2014 passed in S.T.C. No. 184 of 2002 is hereby quashed and set aside.

. Instead, the proceeding is remanded back to the learned Judicial Magistrate First Class, Shevgaon.

8. Both sides are directed to appear before the learned Judicial Magistrate First Class, Shevgaon on 30/09/2015.

9. The learned Judicial Magistrate First Class, Shevgaon is directed to decide the complaint as per the due procedure of law.

10. Criminal Application as well as the appeal stand disposed of accordingly.

[M.T. JOSHI]
JUDGE

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