

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION [ALP] NO.276 OF 2015

Jingonda Bhau Patil ..Applicant

Versus

Mehboob Hasham Khatib
and another. ..Respondents

....

Mr. Prashant Kulkarni, for the Applicant.

Mr. A.R. Patil, APP, for the Respondent-State.

Mr. Jayant J. Bardeskar, for Respondent No.1.

....

CORAM : A. R. JOSHI, J.

DATE : 1st JULY, 2015

P.C.

1. Heard rival submissions on this application for leave to file appeal challenging the dismissal of the complaint and acquittal of the accused.

2. Present applicant/original complainant filed complaint under Section 138 of Negotiable Instruments Act against the respondent/accused. Initially the complainant was asked to file affidavit in-lieu of verification statement but that was not complied. Then the complaint came to be dismissed under Section 203 of Cr.P.C.. This order was challenged by the present applicant/complainant before the Revisional Court and the

revision was allowed and the matter was sent back to the trial Court. Thereafter again time was sought by the complainant to take steps but reportedly for three years steps were not taken and the matter remained pending till January, 2014 and on 28.1.2014 the impugned order came to be passed mentioning that the applicant is not interested in pursuing the matter.

3. Today the learned Counsel for the respondent is present before the Court and argued that for want of verification further steps were not taken by the Court and as such there was no process issued against the respondent but in the revision petition the respondent appeared and then as such now the respondent is present before this Court also. Learned Counsel for the respondent further stated that as per his instructions, the process was issued on the respondent. Whatever it might be, presently the respondent is before the Court and he is ready and willing to appear before the trial Court and to proceed further with the matter in accordance with law.

4. Considering the above circumstances, in the opinion of this Court, not only the application for leave to file appeal but

even the appeal can also be disposed of by giving suitable directions and hence the order. Application for leave to file appeal is allowed. Appeal is admitted and even the appeal is allowed thereby setting aside the impugned order dated 28.1.2014 passed by the J.M.F.C. Court No.5, Ichalkaranji, Kolhapur with directions to the concerned Court to deal with the matter in accordance with law after the applicant and the respondent appear before the Court as per the directions of this Court. Said parties to appear before the concerned Court on 27.7.2015 and then the concerned Court shall deal with SCC No.416 of 2011 as said case is restored to the file of the concerned Court. With these directions, appeal is disposed of.

(A. R. JOSHI, J.)

Deshmane (PS)