

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.328 OF 2015

Rajkumar P. Nagdawane V/s. Bharatbhai M. V. Shah & Ors.

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr.Amol A. Patankar, for the applicant-appellant.

Mrs.P.P. Bhosale, for the respondent-State.

CORAM : A.R. JOSHI, J.

DATE : 16TH JULY 2015

P.C.:

1. Heard learned counsel for the applicant-appellant.

Respondent nos.1 and 2 are already served as per office report.

None present for the respondents.

2. This is an application for leave to file appeal challenging the acquittal of respondent nos.1 and 2 in the matter of offence punishable under section 138 of Negotiable Instruments Act. Vide order dated 03rd December 2013 the complaint was dismissed for want of prosecution as complainant was absent on that day and only on one earlier date. In the opinion of this Court the order of dismissal should not have been passed only for the absences of the complainant for one or two dates considering that

the matter is of dishonor of cheque of Rs.1 lakh. In any event in the opinion of this court the dispute between the parties is required to be adjudicated on merits and hence the present application for leave is allowed; even appeal is also admitted and allowed, considering the small issue involved as the challenge is to the order of dismissal for want of prosecution.

3. In view of the above the application for leave and appeal are allowed. The Criminal Complaint No.5001337/SS/2013 is restored to the file of the concerned Court. Both the parties are directed to appear before the concerned Court on 24th August 2015. The concerned trial Court shall continue with the complaint from the stage it was dismissed and disposed of the same in accordance with law. If the respondent nos.1 and 2 fail to remain present before the Trial Court on 24th August 2015 necessary process be issue against them by the trial Court. With these directions the present application is accordingly disposed of and also appeal is disposed of.

(A.R. JOSHI, J.)