

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

CRIMINAL WRIT PETITION NO. 127 OF 2016

SHRI BALKRUSHNA SOMNATH LAHOTI
VERSUS
BHAGWAN RATAN CHAUDHARI

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Advocate for Petitioner : Shri Patil Pramod D.
APP for State : Shri S.N.Kendre.
None for the Respondent.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th June, 2016

Per Court:

1 None appears for the Respondent despite service of the Court notice.

2 The Petitioner has come up with this petition against the order dated 03.09.2015 by which the learned Judicial Magistrate First Class has dismissed Criminal Case No.1039/2008 for want of prosecution.

3 The learned Advocate for the Petitioner submits that due to inadvertence and for the reasons set out in the petition, the Petitioner as well as his Advocate were absent despite specific directions given by the Trial Court. Since the matter was instituted in 2008 with regard to the

dishonouring of cheque for an amount of Rs.70,000/-, the Trial Court has dismissed the complaint as the Petitioner did not take steps for prosecuting the complaint.

4 The learned Advocate further submits that while issuing notice on 04.04.2016, this Court has directed the Petitioner to deposit an amount of Rs.2,500/- in this Court to show his bonafides and the said amount has also been deposited.

5 Considering the cause of action and the impugned order coupled with the fact that the case pertains to the dishonouring of cheque under Section 138 of the Negotiable Instruments Act, I am inclined to allow this petition on costs or else the Petitioner would be rendered remedy-less.

6 In the light of the above, this Writ Petition is allowed. The impugned order dated 03.09.2015 is quashed and set aside and Criminal Case No.1039/2008 is restored to the file of the learned Judicial Magistrate First Class, Nandurbar.

7 As the Respondent has not appeared in this matter, the amount of Rs.2,500/- deposited by the Petitioner in this Court shall be

transmitted to the Advocates Association's Bar Library, High Court, Aurangabad.

8 It be noted that as the case pertains to the year 2008, the Petitioner shall diligently prosecute the matter and in the event, the conduct of the Petitioner is indicative of lack of interest, the Trial Court shall proceed to pass necessary orders as it may deem fit.

kps

(RAVINDRA V. GHUGE, J.)