

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

CRIMINAL APPEAL NO. 245 OF 2016

Shri Mahesh Sahakari Bank Maryadit,
Jalgaon

...Appellant

VERSUS

Ashok Pandit Patil

...Respondent

.....
Shri D.B.Thoke, advocate for appellant
Shri S.S.Gangakhedkar, advocate for respondent sole
.....

CORAM : INDIRA K.JAIN, J.

DATED : 12th APRIL, 2016

ORDER :

This appeal takes an exception to the order, dated 7.7.2015, passed by the learned Judicial Magistrate, First Class, Jalgaon, in S.C.C. No. 1871 of 2007.

2] Heard Shri D.B.Thoke, learned counsel for appellant and Shri S.S.Gangakhedkar, learned counsel for respondent. Perused impugned order and copy of roznama.

3] Appellant is the original complainant in a proceeding under Section 138 of the Negotiable Instruments Act. On 7.7.2015 case was fixed for taking steps as accused remained absent. Complainant did not take steps and so complaint was dismissed vide impugned order.

4] It can be seen from roznama that criminal case was filed in the year 2007. In 2011 accused was served with summons. He

did not appear. So bailable warrant was issued. Bailable warrant was returned unserved. Since 23.5.2014 matter was fixed from time to time for taking steps.

5] It can be further seen from roznama that despite service of summons in 2011 accused did not put his appearance and many times bailable warrant was required to be issued against him. Complainant had to file number of applications to secure presence of the accused. This would indicate that complainant was interested in proceeding with the case.

6] In the above circumstances and to avoid denial of justice impugned order needs to be set aside. Hence the following order.

ORDER

- (i) Criminal Appeal No. 245 of 2016 is allowed in terms of prayer clause 'C'.
- (ii) The impugned order dated 7.7.2015 passed in S.C.C. No. 1871 of 2007 is set aside and complaint is restored to the file of Trial Court with a direction to dispose of the same in accordance with the law.
- (iii) Parties to appear before the Trial Court on 30.4.2016.
- (iv) No order as to costs.

[INDIRA K.JAIN, J.]