

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

Criminal Application No. 2236 of 2016
(In Criminal Revision Application Stamp No. 104/2016)
And
Criminal Revision Application Stamp No. 104/2016

District : Ahmednagar

Devidas s/o. Eknath Andhalkar,
 Age : 77 years,
 Occupation : Business,
 R/o. Shivshankar Society,
 Near Veershaiva Mangal Karyalaya,
 Bhigvan Road, Baramati,
 District Pune.

.. Applicant
 (Original accused)

versus

1. Gorakshanath Dnyandeo Thorve,
 Age : 68 years,
 Occupation : Business,
 R/o. Eknath Nagar, Nepti Road,
 Ahmednagar.

.. Respondents
 (No.1 -
 Original
 complainant)

2. The State of Maharashtra.

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*Mr. Abhijeet P. Avhad, Advocate, for the
 applicant (Absent).*

*Mr. K.N. Lokhande, Addl. Public Prosecutor, for
 respondent no.2.*

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CORAM : Z.A. HAQ, J.

DATE : 23RD NOVEMBER 2016

ORAL ORDER:

The applicant has filed Revision Application challenging the judgment passed by the Sessions Court dismissing the appeal filed by the applicant and maintaining the judgment passed by the learned Magistrate by which applicant is convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and is sentenced to undergo simple imprisonment for 06 months and to pay compensation of Rs. 3,07,000/-, in default of which, the applicant has to undergo further simple imprisonment of 03 months.

02. On 20th October 2016 and 26th October 2016, following orders are passed :-

"20th October, 2016.

The applicant was convicted by learned Judicial Magistrate, First Class, Ahmednagar, for an offence punishable under Section 138 of the Negotiable Instruments Act vide judgment and order dated 25th November, 2010, in S.T.C. No. 1181 of 2009, confirmed in Criminal Appeal No. 193 of 2010 by learned Sessions Judge, Ahmednagar, vide judgment and order dated 7th November, 2015.

2. The applicant has not surrendered pursuant to the order of conviction. In view thereof, post this matter for further consideration on 26th October, 2016. "

"26th October, 2016.

Pursuant to the order of conviction passed by the learned Magistrate, which was confirmed in an appeal, till date the applicant has not surrendered. This Court, on 20th October, 2016, had given an opportunity, however, there is no response from the applicant. In view thereof, issue non-bailable warrant against the applicant, returnable on 23rd November, 2016."

03. Office has put a note that report of non-bailable warrant issued against the applicant is awaited. The learned Addl. Public Prosecutor states that as per his instructions, the non-bailable warrant could not be executed as the applicant is not residing on the address given in the Revision Application.

04. As none appeared for the applicant in the morning session, the matter was kept back. Again in

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the afternoon session, none appeared for the applicant when the matter was called out.

05. Hence, considering the above facts and the conduct of the applicant, it appears that the applicant is not interested in prosecuting the matter. The Criminal Application and Revision Application are dismissed.

(Z.A. HAQ)
JUDGE

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