

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2322 OF 2015

Vishwakarma Nagri Sahakari Bank Ltd. .. Applicant

Vs.

Gautam S/o Mohan Shinde .. Respondent

Mr. K.J. Suryawanshi, Advocate for the applicant
Respondent served - absent

CORAM : N.W. SAMBRE, J.

DATE : 19/09/2016

ORAL ORDER :

The respondent, though served, none appears.

2. The applicant is complainant in S.C.C. No. 8250 of 2014, which was initiated before the Court of learned Judicial Magistrate First Class, Aurangabad for an offence punishable under section 138 of the Negotiable Instruments Act. The complaint came to be dismissed by the learned Magistrate on January 21, 2015, as the complainant and his lawyer were absent since December 9, 2014.

3. It is then required to be noted that immediately thereafter, the complainant moved an

application for restoration of the complaint on the very same day i.e. on January 21, 2015, however, for want of appropriate powers, the learned Magistrate has rejected the application.

4. Since the contentions raised in the application are non-controverted and the applicant has given an assurance before this Court that the applicant shall not seek any further adjournment and shall remain present before the learned Magistrate on each date of hearing, in my opinion, the order of dismissal of complaint passed by the learned Judicial Magistrate First Class, Aurangabad on 21/1/2015, needs to be set aside with further condition of restoration of the complaint being S.C.C. No. 8250 of 2014 on the file of the learned Magistrate.

5. Leave granted. Criminal Application No. 2322 of 2015 stands allowed on the above terms, subject to payment of costs of Rs.2000/- (Rs. Two Thousand) to the High Court Advocates' Bar Association at Aurangabad, within a period of one week from today, as a condition precedent.

6. Criminal Appeal also stands allowed accordingly.

[N.W. SAMBRE]
JUDGE

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