

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5609 OF 2015

Vilas S/o Vasantryao Kulkarni .. Applicant

Vs.

Dr. Yuvraj S/o Vishwanath Tarate .. Respondent

Mr. Swapnil Patunkar, Advocate for J.P. Legal Associates for
the applicant

Mr. M.P. Kale, Advocate for the respondent

CORAM : M.T. JOSHI, J.

DATE : 03/02/2016

ORAL ORDER :

Heard both sides.

2. Aggrieved by the dismissal of the complaint filed for the offences punishable under section 138 of the Negotiable Instruments Act by the learned Judicial Magistrate First Class, Ashti vide order dated 15/09/2015 passed in S.C.C. No. 583 of 2014, the original complainant is before this Court.

3. The record would show that, upon direction to issue process against the respondent, the summons was

served. The respondent however failed to appear and, therefore, non-bailable warrant was issued against him on two occasions. On third occasion, the complainant remained absent and the complaint came to be dismissed, as no further steps were taken.

4. Considering all this material on record, leave to file appeal is hereby granted.

5. Appeal be registered as per the due procedure of law.

6. Upon registration, the appeal stands **admitted**.

7. For the reasons already forwarded, the Appeal is also allowed. The impugned order of the learned Judicial Magistrate First Class, Ashti dismissing the complaint and acquitting the respondent/accused is hereby set aside. Instead, the matter is remanded back to the learned Judicial Magistrate First Class, Ashti.

8. Both sides are directed to appear in the trial Court on 02/03/2016, whereupon, the learned Judicial Magistrate First Class shall allow the respondent to furnish surety and to execute P.R. bond in the amount of

Rs.10,000/- each and to continue with the proceedings according to the due procedure of law.

9. Criminal Application seeking leave to file appeal and the Criminal Appeal stand disposed of accordingly.

[M.T. JOSHI]
JUDGE

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