

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 6183 OF 2014

Jyoti Sahakari Patsanstha Maryadit
Kopargaon, Branch Kolhar

.. Applicant

Vs.

Subhash Chandrabhan Tambe

.. Respondent

Mr. R.A. Tambe, Advocate for the applicant
Mr. T.M. Tandale, Advocate for the respondent

CORAM : N.W. SAMBRE, J.

DATE : 19/09/2016

ORAL ORDER :

Having heard Mr. Tambe, learned counsel for the applicant for some time, he has invited my attention to the Roznama in S.T.C. No. 494 of 2006, which was pending on the file of learned Judicial Magistrate First Class, Rahata. Perusal whereof depicts that the applicant-original complainant in the complaint under section 138 of the Negotiable Instruments Act was present on number of occasions so as to pursue the said complaint. It is rather the non-applicant, who remained absent, resulting in issuance of bailable warrant against him.

2. Apart from above, Shri Tambe has undertaken before this Court that the applicant shall remain present before the learned Magistrate on each and every date till the final disposal of the complaint and shall not seek any adjournments.

3. The said contentions, though are seriously objected to by the learned counsel for the respondent/accused, however, from the perusal of the contents of the Roznama depicts default on the part of the respondent/accused.

4. The learned Magistrate has dismissed the complaint for want of prosecution, as the complainant was absent. In the above referred background, pursuant to the assurance given before this Court that the complainant shall not seek any adjournments and shall remain present before the learned Magistrate till final disposal of the complaint, the order impugned dated 30/09/2004 needs to be set aside, subject to payment of costs of Rs.1,000/- (Rs. One Thousand) to be paid to the High Court Advocates' Bar Association at Aurangabad, within a period of one week from today, as a condition precedent.

5. In the aforesaid background, the parties agree that they shall appear before the learned Magistrate, Rahata in the above complaint, on 29/09/2016.

6. Leave granted. Criminal Application No. 6183 of 2014 stands disposed of. Appeal is admitted.

7. Criminal Appeal also stands allowed accordingly.

[N.W. SAMBRE]
JUDGE

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