

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

**CRIMINAL APPEAL NO. 705 OF 2014**

Arun Dnyanoba Darade

.. Appellant

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....  
Mr A. A. Mundhe, Advocate for the appellant  
Mr A. R. Kale, APP for respondent/State  
.....

**CORAM : M.T. JOSHI, J.**

**DATE : 22/02/2016**

**ORAL ORDER:**

. None appears for respondent No. 2. Even on last date also, none had appeared on behalf of respondent No. 2.

The complaint of the present applicant for the offence punishable under Section 138 of the Negotiable Instruments Act against respondent No. 2, was dismissed in default and the said respondent was acquitted as no steps were taken to secure his presence. The copy of Roznama would show that, time and again the present complainant has sought re-issuance of summons and thereafter non-bailable warrant due to absence of

respondent and ultimately when the complainant remained absent for 3-4 dates, the complaint was dismissed for want of prosecution.

2. Considering the material on record, the Criminal Appeal is hereby allowed. The order dt. 19<sup>th</sup> June, 2012 passed by learned Judicial Magistrate First Class, Parli Vaijnath, Dist. Beed in Summary Criminal Case No. 853 of 2010 is hereby quashed and set aside. Instead the said Summary Criminal Case No. 853 of 2010 is restored to the file of learned Judicial Magistrate First Class, Parli Vaijnath, on the condition that the present appellant shall take steps for securing the presence of respondent by seeking summons/warrant as per the discretion of learned Judicial Magistrate First Class, by Hamdast etc.

3. Criminal Appeal is allowed in the above terms and disposed of.

**[M.T. JOSHI]**  
**JUDGE**