

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APL) NO.636 OF 2015.
(ROHIDAS LAXMAN PAWAR...VS..DEORAJ JETHABHAI GOSAR)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.
DATED : FEBRUARY 15, 2016.

Heard Shri M.P.Kariya, advocate for the applicant
and Shri D.R.Goenka, advocate holding for Shri G.R. Kothari,
advocate for the non-applicant.

In the proceedings under Section 138 of the
Negotiable Instruments Act, after recording of evidence is
completed, the applicant (non-applicant in the proceedings
before the Magistrate), filed application seeking permission to
examine the witnesses. This application came to be rejected
by the learned Magistrate and the revision application filed
before the Sessions Court was also dismissed. The applicant
filed Criminal Application (APL) No. 103 of 2015 before this
Court which is disposed of by the order dated 1st July, 2015
which is as follows :

*“Learned counsel for the applicant seeks
permission to withdraw the present
application.*

*Criminal Application No.
103/2015 is dismissed as withdrawn with
liberty to raise the grounds in this application
before the appropriate Court.”*

After disposal of Criminal Application (APL) No. 103 of 2015, the applicant filed an application before the learned Magistrate seeking permission to examine the witnesses which is again rejected and revision is also dismissed. The applicant has filed this application under Section 482 of the Code of Criminal Procedure challenging the orders.

Shri M.P. Kariya, advocate for the applicant has submitted that this Court while disposing of Criminal Application (APL) No. 103 of 2015 granted liberty to the applicant to move application again before the learned Magistrate seeking permission to examine the witnesses.

The learned advocate for the non-applicants has submitted that the liberty to file fresh application was not granted by this Court and the applicant was granted liberty to raise grounds before the appropriate Court, if occasion arises.

Considering the order passed by this Court on Criminal Application (APL) No. 103 of 2015 on 1st July, 2015, it is clear that this Court has not granted permission to the applicant to file fresh application. This Court granted liberty to the applicant to raise the grounds which were raised in Criminal Application (APL) No. 103 of 2015, before the appropriate Court meaning thereby that the applicant can agitate the ground in appeal, if occasion arises.

In view of the above, it cannot be said that the impugned orders suffer from any error of jurisdiction. The application is dismissed with costs quantified at Rs.Five Thousand to be paid by the applicant to the non-applicant till 29th February, 2016.

At this stage, Shri M.P.Kariya, advocate has requested that the interim order granted by this Court on 16th September, 2015 may be continued for four weeks to enable the applicant to take appropriate steps in the matter.

Considering the facts on record, I am not inclined to consider the prayer made on behalf of the applicant, it is rejected.

JUDGE

RRaut..