

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

Criminal Writ Petition No. 069 of 2016

District : Jalna

Shri Rameshwar Sahakari Sakhar
Karkhana Ltd.,
Raosaheb Nagar, Sipora, Bajar,
Taluka Bhokardan,
District Jalna,
Through
Shri Sarangdhar s/o. Pandurang
Khadke,
Age : 37 years,
Occupation : Service (Clerk),
R/o. Rameshwar Sahakari Sakhar
Karkhana.

.. Petitioner.

versus

Shafi Ismail Shaikh,
Age : 54 years,
Occupation : Sugarcane
Harvesting contractor,
R/o. Manchar,
Taluka Ambegaon,
District Pune.

.. Respondent.

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*Mr. Himmatsinh D. Deshmukh, Advocate, for the
petitioner.*

Mr. H.I. Pathan, Advocate, for the respondent.

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CORAM : T.V. NALWADE, J.

DATE : 22ND MARCH 2017

ORAL JUDGMENT :

Heard both sides.

02. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of the parties.

03. By the present petition filed under Article 227 of the Constitution of India, the petitioner has prayed as under :-

" Issue writ of certiorari or any other writ of like nature thereby quashing and setting aside the impugned order dated 05.01.2016 passed by learned J.M.F.C., Bhokardan, District Jalna, on the complaint presented by the petitioner re-returned from learned J.M.F.C., Newasa, bearing S.T.C. No.632/2014 allowing to register the same with learned J.M.F.C., Bhokardan, District Jalna, and for that purpose issue necessary orders. "

04. Learned Advocate for the petitioner has placed on record, copy of the order made by this Court in Criminal Writ Petition No. 070 of 2016 [*Shri Rameshwar Sahakari Sakhar Karkhana Ltd., Raosaheb Nagar, Sipora Bajar, Taluka Bhokardan, District Jalna Vs. Chintaman s/o. Dashrath Dhole*] dated 20.04.2016. Same is taken on record.

05. It appears that in similar circumstances, this Court set aside the order passed by the

Magistrate and directed to hear the petitioner and to pass appropriate orders afresh.

06. In view of the above and considering facts of the present matter, the Petition is allowed. The impugned order dated 05th January 2016, passed by the Judicial Magistrate (F.C.), Bhokardan, District Jalna, on the complaint filed by the petitioner under Section 138 of the Negotiable Instruments Act, 1881, is hereby set aside and the matter is remitted to the Court of Judicial Magistrate (F.C.), Bhokardan, with a direction to deal with the issue in detail and pass appropriate orders.

07. Rule made absolute in the above terms.

(T.V. Nalawade)
JUDGE

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