

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

CRIMINAL APPLICATION NO. 1093 OF 2016

J. K. Water Supplier, Through its Proprietor

Mr. Gaus Khan S/o Jaani Khan

.. Applicant

Versus

The State of Maharashtra & Anr.

.. Respondents

.....
Mr Sk. A. T. Patel, Advocate for the applicant
Mr K. N. Lokhande, APP for respondent/State
.....

**CORAM : VL. ACHLIYA, J.
DATED : 19.01.2017.**

PER COURT :

1. The applicant has preferred this application u/s 378(4) of Code of Criminal Procedure seeking leave to file appeal against the impugned order of dismissal of complaint due to default on the part of the complainant.

2. Perusal of impugned order reflects that, after filing of complaint the complaint was kept for verification. The complainant remained absent though the case was repeatedly adjourned. Ultimately the impugned order has been passed. The process was not issued in the matter. Hence, the dismissal of complaint not

amounts to acquittal of accused. In this view, the present application filed seeking leave to file appeal is not maintainable in law.

3. At this stage, the learned counsel seeks permission to withdraw application and liberty to adopt appropriate remedy.

4. Criminal Application stands disposed of as withdrawn with liberty as prayed for.

[V. L. ACHLIYA]
JUDGE