

*Nalawade*FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 172 OF 2018

Nira Bhima Sahakari Karkhana Ltd. vs. Popat D.Nagle &
ors.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.Ramdas Patil for the Applicant.

Mr. A.R.Kapadnis, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 23rd April, 2018

P.C.

1. This is an application under section 378(4) of the Cr.P.C. for leave to file appeal against the Order dated 7.7.2017 passed below Exh.1 by the learned Judicial Magistrate First Class, Indapur in Summary Criminal Case No.579/2016 thereby dismissing the complaint of the applicant for want of steps under Section 256 of the Cr.P.C. thereby acquitting the respondent No.1 for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. The learned counsel for the applicant submitted that on 7.7.2017 the Advocate for the applicant was held up before the other Court and therefore, could not attend the matter. He further submitted that due to mis-communication between the

applicant and his Advocate the applicant-Karkhana could not depute its representative to attend the matter on that date. He further submitted that hereinafter the applicant will seriously attend the Court and will co-operate the Court in disposing of the said case early. The said statement is accepted.

3. In view of the above, I am inclined to set aside the impugned order dated 7.7.2017 subject to condition that the applicant shall pay a cost of Rs.5000/- to the High Court Legal Services Committee within a period of three weeks from today.

Hence, the following order.

- a) The Order dated 7.7.2017 passed below Exh.1 by the learned Judicial Magistrate First Class, Indapur in Summary Criminal Case No.579/2016 is hereby set aside and the said complaint is restored to the file subject to the aforestated condition of payment of cost.
- b) It is made clear that, payment of cost is the condition precedent for setting aside the impugned order.
- c) The applicant shall produce the receipt of payment of cost before the Trial Court on the first date of appearance.
- d) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)