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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 395 OF 2016

Deepak Suklal Munoth

..Applicant

Vs

Shri Gangadhar Baburao Makune

..Respondent

Mr. G.A. Kataria for applicant.

Mr. Chetan Damre for Respondent No.1.

Mr. V.V. Gangurde, APP for Applicant/State.

CORAM : A.S.GADKARI, J.

DATE : 5th MARCH 2018.

P.C.:

1] This is an application under Section 378 of Cr. P.C. for setting aside the Order dated 25th February 2016 passed below Exhibit-1 in S.C.C. No.175 of 2009 by the learned Judicial Magistrate First Class, Manmad, (City Court), thereby dismissing the complaint under Section 256 of Cr. P.C.

2] Heard the learned Counsel for respective parties. Perused the record.

The record indicates that, the applicant has filed the aforesated case under Section 138 of the Negotiable Instruments Act on 15.4.2009. As

the applicant did not take proper and effective steps to proceed with the matter and also did not file affidavit of evidence in lieu of examination-in-chief till 29.11.2012, the Trial Court by a Speaking Order of the even date gave warning to the applicant, to do the needful in the matter. The Trial Court has subsequently on two occasions i.e. on 5.12.2015 and 8.1.2016 gave warning and by showing leniency extended the said period to take appropriate steps in the matter. However, from the date of filing of the complaint till the impugned Order is passed i.e. on 25.2.2016, the applicant clearly failed to file affidavit of evidence in lieu of examination-in-chief and to take steps to proceed with the matter and therefore the Trial Court by the impugned Order was pleased to dismiss the said complaint under Section 256 of Cr. P.C.

3] After perusing the record minutely, this Court is of the considered view that the applicant is not interested in persuing the said complaint and has filed the aforesaid complaint only with view to pressurise the respondent. The record clearly indicates that it is the applicant who has failed to comply with the basic mandatory provisions from 15.4.2009 till 25.2.2016 and therefore the complaint is dismissed under Section 256 of Cr. P.C.

- 4] No case for setting aside the impugned Order is made out.
Application is accordingly rejected.

(A.S.GADKARI, J.)