

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

REVISION APPLICATION (ST) NO.560 OF 2017

Kolhapur District Bijopadak Sahakari Sangh
Kolhapur Through its Secretary

... Applicant

V/s.

Shri. Hanuman Gramin Bigar Sheti Ssahakari
Pat Sanstha Maryadit Male, Tal-Panhala & Anr. ... **Respondents**

Mr. Anand Patil for the Applicant.

Mr. P.M. Arjunwadkar for Respondent No.1.

Mr. Amit Palkar, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 25th SEPTEMBER 2018

P.C.:

1. By the present revision, the applicant has impugned the Order dated 11.05.2016 passed by the Additional Sessions Judge, Kolhapur, thereby dismissing the Criminal Appeal No.54/2008 preferred by the applicant for default/non-prosecution. The said Appeal was preferred against the Judgment and Order dated 30.01.2008 passed by the learned Judicial Magistrate First Class,

Court No.8, Kolhapur in S.C.C.No.2793/2006, convicting the applicant under Section 138 of the Negotiable Instruments Act, 1881.

2. The Hon'ble Supreme Court in the case of *Bani Singh & Ors. Vs. State of U.P.*, reported in (1996) 4 SCC 720 : 1996 SCC (Cri.) 848, has categorically held that, a criminal Appeal should not be dismissed in default, but should be decided on merits. The said view is further followed by the Supreme Court in the case of *Madan Lal Kapoor Vs. Rajiv Thapar & Ors.* (2007) 7 SCC 623.

3. In view thereof, the impugned order dated 11.08.2016 is quashed and set aside and the Criminal Appeal No.54/2008 is restored to the file of Additional Sessions Judge, Kolhapur.

4. In view thereof, the application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)