

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO. 35 OF 2019

SHWETHA RAO AND ANR., ... Appellants

Versus

MAHESH GAJANAND USKAIKAR AND ANR., ... Respondents

Mr. G. Teles, Advocate for the appellants.

Mr. S. Nanodkar, Advocate for the respondent no.1.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 20th November, 2019

P.C.

Heard Mr. G. Teles, learned Counsel for the appellants and Mr. S. Nanodkar, learned Counsel for the respondent no.1 who is present today in the Court.

2. By the impugned order dated 4.4.2018, a compliant under Section 138 of the Negotiable Instruments Act came to be dismissed due to the absence of the complainant who, according to the learned Magistrate, was absent despite due opportunity. Learned Counsel for the respondent no.1 submits that matter be remitted back to the trial Court for its disposal on merits in accordance with law and, on instructions, undertakes that respondent would scrupulously remain present without seeking any unnecessary adjournments.

3. In view of the above, impugned order dated 4.4.2018 is

quashed and set aside. Complaint is restored on the file of JMFC on the same number. The appellant and the respondent no.1 shall co-operate with the Magistrate in disposing of the complaint expeditiously.

4. Learned JMFC shall make an endeavour to dispose of the complaint in accordance with law by keeping in mind the mandate of sub-section 3 of Section 143 of the Negotiable Instruments Act.

5. Respondent no.1 shall furnish fresh personal recognition bond in sum of Rs.10,000/-(Rupees ten thousand only) with one surety in the like amount to the satisfaction of the learned JMFC.

6. Parties shall appear before the learned JMFC "B" Court, Panaji on 6.12.2019 at 10.00a.m.

7. Appeal stands disposed of in the aforesaid terms.

PRITHVIRAJ K. CHAVAN, J.