

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPEAL NO. 46 OF 2019

SHRIKANT GARJU.,

... Appellant

Versus

VISHNU PRABHU AND ANR.,

... Respondents

Mr.J. Ramaiya, Advocate for the appellant.

Mr. P. U. Dessai, Advocate for respondent no.1.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 29th August, 2019

ORAL ORDER:

Criminal Case No.O1/OA/NIA/2015/B came to be filed by the appellant against the respondents for dishonour of cheque under Section 138 of the Negotiable Instruments Act. It seems from the impugned order that the learned Magistrate, due to absence of the complainant on 6.2.2018 dismissed the same and acquitted the respondent. The learned Magistrate, however, observed that the complainant did appear on the last date of hearing.

2. Mr. J. Ramaiya, learned Counsel for the appellant submits that due to some mistake in taking date, complainant and his counsel could not appear on the day when the complaint came to be dismissed.

3. It appears that the respondent had issued a cheque in favour

of the complainant for sum of Rs.48,000/- (Rupees fort eight thousand only) which came to be dishnoured. It would not be just and proper to dismiss the complaint only on account of absence of the complainant on a single day, instead, complaint ought to have been disposed of on merits by giving opportunity to the parties. As such, impugned order needs to be quashed and set aside and accordingly, quashed and set aside.

4. Complaint shall be restored to its original number before the same Court. Parties are directed to appear before the Magistrate's Court on 21.10.2019 at 2.30 p.m. The learned Magistrate shall proceed further as per law and dispose of the complaint in accordance with law after giving due opportunity to the parties.

5. Appeal stands disposed of in the aforesaid terms.

PRITHVIRAJ K. CHAVAN, J.