

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

CRIMINAL WRIT PETITION NO. 353 OF 2019

M/s. Pehal Petrochemical (India) Pvt. Ltd. ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

Mr. Vijay Bhanushali for Petitioner.
Mr. A.R. Patil, APP for Respondent – State.

CORAM : S.S. SHINDE, J.
DATE : 5th SEPTEMBER 2019

P.C.:

1. Heard learned counsel for the Petitioner and learned APP for Respondent-State.

2. Being aggrieved by the order dated 29th September 2019 passed by Metropolitan Magistrate 43rd Court, Borivali, Mumbai, this petition is filed.

3. Learned counsel appearing for the Petitioner invites attention of this Court to the averments in the complaint and in particular averment (m) in the complaint and submits that, initially the compliance at the time of filing complaint was made. However, for the

reasons stated in the said averment the order dated 30th August 2018 passed by the said Court could not be complied within 15 days. It is submitted that, in case the complaint is not restored to its original file, the Petitioner will suffer irreparable loss. It is submitted that, since the acknowledgement was not received from the postal department, compliance of order dated 30th August 2019 cannot be made. He submits that, despatch receipt is annexed with the complaint and also reply to the notice issued by the Petitioner is received from the contesting Respondent by the Petitioner. Therefore, he submits that, the concerned Court may be directed to hear the complaint on merits.

4. In the light of submissions made across the bar and keeping in view the grounds taken in the petition and the fact that, the despatch receipt is annexed with the complaint and contesting Respondent has also sent the reply to the notice issued by the Petitioner and same is also received by the Petitioner, the ends of justice would be met in case order dated 29th September 2018 is quashed and set aside and complaint is restored to its original file. Accordingly, the following order-

1. The impugned order dated 29th September 2018 is quashed and set aside.
2. Complaint is restored to its original file.
3. Concerned Court to decide the said complaint on merits in accordance with procedure/law.
4. With the above observations, writ petition stands dispose of.

(S.S. SHINDE, J.)