

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPP) NO. 1412 OF 2019
WITH
CRIMINAL APPLICATION (APPP) NO. 1411 OF 2019

(Umesh S/o Sukhdeoraoji Janbandhu Vs. Prabhakar S/o Dhondbaji Kolhe)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Ms. Rutuja V. Palaspagar, Counsel for the appellant.
Shri P.S. Tiwari, Counsel for the respondent.

CORAM : S.M. MODAK, J.
DATE : 29th NOVEMBER, 2019.

Court of Judicial Magistrate First Class, Nagpur acquitted the respondent for the offence punishable under Section 138 of Negotiable Instruments Act after full fledged trial. The complainant wants to challenge the said order and that is why criminal application 45 of 2019 for grant of leave was preferred. This Court was pleased to dismiss the said application on 5th July, 2019 for non-prosecution. The costs of Rs.5000 was ordered on that date and the costs has been deposited by the applicant. By these two applications, the applicant is seeking restoration of leave application and also seeking condonation of delay caused in filing restoration application. Reasons quoted in both the applications are personal reason of the learned advocate for the complainant. It was on account of medical emergency in her house.

Learned advocate for the accused respondent is opposing those prayers.

Applicant has annexed the medical case papers. The reasons mentioned in both applications are genuine. So both the applications needs to be allowed unconditionally. Hence, the directions –

ORDER

- i. Both the applications are allowed.
- ii The delay caused in preferring restoration application is condoned.
- iii. Criminal Application no. 45 of 2019 is restored back.
- iv. Respondent waives notice.
- v. Stand over after two weeks.
- vi. If respondent-accused wants to file reply, he can file the reply.

JUDGE