

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

CRIMINAL APPLICATION NO. 29/2019

Amarjeet Singh Chhabra ...Applicant

Versus

Sunita P. Chamoli and Anr. ...Respondents

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Mr. Suhas Rohile, Advocate for the Applicant.
Mr. Sandeep Phatak for Respondent No.1.
Mr. S.S. Pednekar, APP for Respondent No.2-State.

...

CORAM : SANDEEP . K. SHINDE, J.

DATE : 12th MARCH, 2020.

P.C.

Heard.

1. Appellant is seeking special leave to appeal under Section 378 (4) of the Code of Criminal Procedure, 1978.

2. Appellant had instituted the complaint under Section 138 of the Negotiable Instrument Act against Mr. M.P. Chamoli and Mrs. Sunita P. Chamoli, respondents/accused no. 1 & 2 respectively. However,

the learned revisional Court vide order 03.12.2015 quashed the process issued against the accused no. 1.

3. The Roznama shows the complaint was posted for hearing on 05.05.2016, 27.07.2016, 29.08.2016, 10.10.2016 and 12.05.2017, but adjourned, for want of presence of the complainant. As a result of which on 12.05.2017, learned Magistrate was pleased to dismiss the complaint for want of prosecution under Section 256 of the Code of Criminal Procedure, 1973 and as such the accused came to be acquitted. It is against this order, the complainant is seeking special leave to appeal.

4. Learned counsel for the appellant submitted that the complainant's wife had expired on 08.07.2016 and therefore, he could not attend the proceeding and in support of this contention has placed on record a death certificate.

5. True that the wife of complainant/appellant

had expired on 08.07.2016, however, roznama shows he did not attend the proceeding for nine months thereafter, without sufficient cause.

6. For the reasons stated herein above, leave is refused. Application is disposed off accordingly.

(SANDEEP. K. SHINDE, J.)_