

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 43 OF 2015
WITH
CRIMINAL APPLICATION NO. 1248 OF 2018
IN
CRIMINAL APPLICATION NO. 43 OF 2015**

LIBORD SECURITIES LTD.

....APPLICANT

V/s

JAY KUMAR SETHIA

.....RESPONDENT

None for the applicant

Mr. Ali Bubere i/b Rajendra Rathod for respondent no. 1

Ms. A. A. Takalkar APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : NOVEMBER 23, 2021

P.C.:-

1] Applicant initiated prosecution against the respondent no. 1- accused for offence punishable under Section 406, 420 of the Indian Penal Code. Another associated company of the applicant namely Dangi Financial & Management Consultancy Pvt. Ltd has also filed similar case against respondent no. 1 accused being case no. 522/SW/2005.

2] Since the cases were based on similar allegation, they were pending in the same court and were posted on same day. It is claimed that on 19/10/2012, the above referred matter i.e. case no. 522/SW/2005 was shown on the board whereas present case was

alleged to have been shown at 2.45 p.m. being case no. 2254/SW/2005.

3] It appears that additional Chief Metropolitan Magistrate [‘CMM’ for the sake of brevity] vide order dated 20/10/2012 dismissed the complaint preferred by the applicant as respondent no. 1-accused was present, however, applicant and their lawyer remained absent. As a consequence of dismissal of complaint, accused came to be discharged.

4] Application moved before the very same court seeking restoration of complaint by staying the impugned order dated 20/10/2012 dismissing the complaint. CMM rejected the said application for restoration on 17/11/2014 having regard to conduct of the complainant as reflected in the rozanama as the Court of CMM was not having jurisdiction to pass such order. As such, against the order of acquittal/discharge, present application.

5] Having regard to nature of challenge in the application, matter was adjourned at the behest of applicant. Matter remained pending since 2015 and when called out for the second time, none appeared for the applicant.

6] That being so, application stands rejected for want of prosecution.

7] In view of dismissal of application, application for condonation of delay also stands disposed of.

(NITIN W. SAMBRE, J.)