

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

CRIMINAL APPEAL NO.129/2020

Ankesh Shashikant Dhawan

-VERSUS-

M/s. Modernncity Builtcom Private Limited. & ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A. Daga, Advocate for appellant.

CORAM : VINAY JOSHI, J.

DATE : 09.01. 2021.

Heard learned counsel appearing for the
appellant/original complainant. Though respondent
Nos. 1 to 3 were duly served, they are absent.

2. The learned counsel for the appellant
would submit that since the summons was not served,
the matter was pending before the Magistrate for long
period for receipt of summons. According to him, the
appellant was diligent in prosecuting the matter,
however the Trial Court without giving him
opportunity, has dismissed the same. It is also
submitted that the cheque amount was huge i.e. Rs.

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4,55,168/- and therefore, having regard to the said aspect, he requested to restore the matter.

3. Perused the impugned order which discloses that on failure of complainant to take steps, the matter was came to be dismissed for want for prosecution. A copy of complaint has been perused which shows that there was monetary transactions of sizable amount. The respondents though served, they remained absent to rebut the submission made by the appellant. Having regard to these facts, it in the interest of justice to accord one more opportunity to the appellant to prosecute the case, the matter requires to be restored.

4. Appeal stands allowed. Impugned order dated 06.06.2018 passed in SCC No. 16503/2015 stands quashed and set aside. The complaint is restored at is original stage with direction to the complainant to take necessary steps on the date of appearance itself.

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5. The parties are directed to appear before the Trial Court on 22.01.2021. Appeal stands disposed in above terms.

JUDGE

Gohane.