

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.479 OF 2021

Meena w/o Prakash Pandit

... APPELLANT

VERSUS

Gulab s/o Bhimrao Ingle

... RESPONDENT

.....
Mr. S.A. Gaikwad, Advocate for appellant
.....

CORAM : R. G. AVACHAT, J.

DATE : 27th January, 2022.

PER COURT :

In spite of service of notice, the respondent (original accused) has not marked his appearance. It was a case instituted under Section 138 of the Negotiable Instruments Act. The trial Court dismissed the complaint under Section 256 of the Code of Criminal Procedure and acquitted the respondent herein. The record indicates that, the Advocate representing the complainant/ appellant herein had withdrawn his appearance. It is informed that, the Advocate had not followed the prescribed procedure before withdrawing his power. Be that as it may. The complaint was dismissed without hearing the same on merits. It was under

Section 138 of the Negotiable Instruments Act.

2. For the reasons given in the appeal memo, and in the interest of justice, the order impugned herein is set aside. The proceedings in S.C.C. No.7793/2015 are restored to file of the trial Court for deciding in accordance with law. The trial Court shall ensure appearance of the respondent/ accused in the matter before proceeding therewith. Record and proceedings, if any received, be sent back to the trial Court immediately.

3. The appeal stands disposed of.

(R. G. AVACHAT)
JUDGE

fmp/-