

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.1072 OF 2019
IN
CRIMINAL APPEAL NO. OF 2019

Dipak s/o Narayan Lolure
Vs.
Ramesh s/o Goyarsha Tope

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

Court's or Judge's orders

Mr. A. P. Deshmukh, Advocate for applicant.

CORAM : AVINASH G. GHAROTE, J.
DATE : 14/06/2022

Heard Mr. Deshmukh, learned counsel for the applicant. None appears for the non-applicant.

The leave is sought to file appeal against order dated 16.11.2019 (pg 22) passed by the learned Chief Judicial Magistrate, Washim in SCC No.386/2017 which on account of non-prosecution of the complaint dismissed the matter in default.

Mr. Deshmukh, learned counsel for the applicant submits that there was no intention of the applicant not to prosecute. He invites my attention to the order sheets dated 10.07.2019, 17.08.2019, 23.09.2019 and 11.10.2019 to submit that on the last three above dates the complainant was present, however, the fact that evidence was not recorded, cannot be laid at the door step at the complainant. Only because on 16.11.2019 the complainant was absent that did not constitute a

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reason for dismissal of the complaint on that count by ignoring the appearance of the applicant/complainant of the earlier dates, considering which leave is granted.

Office to register to the appeal.

Issue notice on the appeal, returnable on 30.6.2022.

It is made clear that considering the nature of the impugned order the appeal shall be decided finally at the stage of admission itself.

The appellant to serve the respondent by the returnable date positively.

JUDGE

Sarkate