

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

947 CRIMINAL APPEAL NO.129 OF 2023

RENUKA MATA MULTISTATE CO-OPERATIVE URBAN CREDIT
SOCIETY LTD., AHMEDNAGAR THROUGH AUTHORIZED PERSON
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Appellant : Mr. Amol S. Gandhi
APP for Respondents: Mr. V. S. Badakh
Respondent no. 2 served
...

CORAM : R. M. JOSHI, J.

DATE : 19th AUGUST, 2023

PER COURT :

1. This appeal takes exception to the order dated 16.11.2019 passed by learned Addl. Chief Judicial Magistrate, Ahmednagar in S.C.C. No. 846/2011 dismissing the complaint for the offence under Section 138 of the Negotiable Instruments Act, for want of prosecution.

2. In spite of service of notice, none appears for respondent no. 2/original accused. This indicates that he has no inclination to oppose the appeal.

3. Perusal of the appeal memo and submissions advanced across the bar indicates that except for the day when the complaint was dismissed for want of prosecution, the complainant or its advocate remained present before the learned trial Court. Having regard to this fact, this is a fit case wherein opportunity needs to be given to the complainant to substantiate his case before the learned trial Court. Hence, **Appeal deserves to be allowed and is accordingly allowed.** The impugned order dated 16.11.2019 is set aside. S.C.C. No. 846/2011 is restored to the file of the learned trial Court at the stage at which it was dismissed. Since the proceeding pertains to the year 2011, the trial Court to decide the same finally within a period of six (06) months from the date of receipt of knowledge of this order.

[R. M. JOSHI]
JUDGE

SG Punde