

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

38 CRIMINAL APPLICATION NO.1881 OF 2022

**SANGITA YAMAJI PANDHRE @ SANGITA RADHAKRISHNA KHARPUDE
VERSUS
RAJU HARIBHAU NALE AND OTHERS**

Mr.N.S. Jaju, Advocate for the applicant.

Mr.D.A. Bide, Advocate for the respondents.

**CORAM : KISHORE C. SANT, J.
DATED : 16.01.2023**

PC :-

01. Heard learned Advocate for the parties. The application is taken up for final disposal at the stage of admission by consent of the parties.

02. The petitioner has filed a complaint in the Court of Judicial Magistrate, First Class, Shevgaon against the respondents for the offences punishable under sections 417, 423, 467, 468, 471, 474, 504, 506 read with section 34 of the Indian Penal Code. Said complaint was filed in the year 2016, however, for the first time the order came to be passed to put the complaint for verification on 26.06.2019. However, inspite of the order for verification, for 2-3 dates the complainant remained absent. Therefore, the learned JMFC passed an order that in-case of failure to appear before the

Court, the complaint would be dismissed. By order dated 11.03.2022 the learned Magistrate dismissed the complaint as per section 203 r/w 256 of the Cr.P.C.

03. The learned Advocate for the petitioner submits that, in-fact, the complainant could not get knowledge of the dates and of the order in the matter and therefore she remained absent. Thereafter, because of nation-wise lock-down, the applicant could not remain present. Therefore, the order passed by the learned JMFC deserves to be quashed and set aside by remanding the complaint.

04. Learned Advocate for the respondents vehemently opposed the application by filing affidavit-in-reply. He has produced on record Roznama in RCS No.94 of 2017, between same parties, wherein it is seen that the applicant was attending the proceedings of the civil suit. He pointed out that the impugned order was passed on 11.03.2022. However, during that period she was very much present in the Court in civil proceeding on 14.03.2022 and 05.04.2022. This clearly shows that she was deliberately not attending the proceedings in the Criminal Court. This shows that the applicant is harassing

the accused persons. Therefore, the learned Advocate prays for rejection of the application.

05. Learned Advocate for the applicant again argued that at this stage the accused persons do not have *locus standi* as summons itself is not issued. It is only after issuance of summons, accused will have role to play in the proceeding. As of today, they need not be heard.

06. Considering the submissions, it is seen that though the complaint is of 2016, till 2019 no orders were passed. For the first time on 26.06.2019 the order was passed to put the complaint for verification. From the order dated 07.11.2019 it appears that the complainant was repeatedly absent and therefore the Court had no option but to proceed further. After the lock-down period, the complaint was taken on Board and was dismissed. Considering all these aspects, this Court feels that the complainants should get an opportunity to proceed with the complaint. However, at the same time she should be put to some costs. It is also seen that since 2016 to 2019, the complainant has not taken proper follow up of the complaint.

07. Therefore, the criminal application is allowed in terms of prayer clause (C) subject to costs of Rs.7500/- (Rupees Seven Thousand Five Hundred) to be deposited in the office of High Court Legal Services Sub-Committee, Aurangabad within a period of three weeks from today.

[KISHORE C. SANT, J.]