

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

**CRIMINAL APPLICATION NO.4882 OF 2017
IN REVNST/258/2017**

**SUSHMA ANKUSHRAO YELE
VERSUS
SURESH NAMDEO MORE**

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Advocate for Applicant : Mr. Thorat Nanabhau R
Advocate for Respondent : Mr. Laxman H. Kawale h/f Mr. K. J.
Suryawanshi

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CORAM : S.G. MEHARE, J.

DATED : AUGUST 10, 2023

PER COURT:-

1. Perused the order impugned before the Court. It was the order of the learned Magistrate under Section 203 of the Criminal Procedure Code that provides for dismissal of the complaint if the Magistrate on the basis of the statements on oath of the complainant and the witnesses satisfies that there is no sufficient ground for proceeding. The order impugned before the Court is apparently passed under Section 203 of the Criminal Procedure Code. The Hon'ble Supreme Court in the case of Jatinder Singh Vs. Ranjit Kaur; 2001 Cr.L.J. 1015 (SC) has laid down the law that the revision against the order of the Magistrate dismissing the complaint under Section 203 of the Criminal Procedure Code is maintainable. Every order passed by the learned Magistrate is revisable before the Sessions

Court. However, instead of approaching the Sessions Court, the complainant preferred the revision before this Court. None of the parties can by pass the procedure and practice. Nobody has brought this point to the notice of the Court when the delay was condoned. The remedy is available to the petitioner under Section 397 of the Criminal Procedure Code before the Sessions Court, as it was the order of the Magistrate under Section 203 of the Criminal Procedure Code though the complaint is under Section 138 of Negotiable Instruments Act. Hence, the petition cannot be entertained.

2. The case is pending since 2017 without any progress. Hence, the petition stands dismissed as cannot be entertained before this Court with a liberty to file the petition before the concerned Sessions Court. However, the period spent before this Court shall be condoned.

3. The applicant shall prefer the revision before the Sessions Court within one month from today.

4. R and P be returned to the learned Judicial Magistrate First Class, Beed.

(S.G. MEHARE, J.)