

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

APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY NO.101 OF 2022

**SHIVAJI S/O. RAMKISAN DHOTRE
VERSUS
GANESH S/O. VISHNU SOLANKE**

Mr. A. G. Deshmukh, Advocate for the applicant
Mr. A. S. Jadhav, Advocate for respondent

**CORAM : R. M. JOSHI, J.
DATE : 10th JULY, 2023**

P.C. :-

1. Leave to file appeal granted. Appeal admitted by consent of both sides.
2. The appellant is original complainant and being aggrieved by order dated 2nd July, 2019 passed by learned JMFC, Majalgaon, Dist. Beed in S.C.C. No. 410/2018 for want of prosecution.
3. Learned counsel for the appellant states that on account of miscommunication with the advocate he could not appear before the Trial Court and hence the complaint has resulted in to dismissal.
4. Learned counsel for the respondent/original accused opposed the said contention by referring to the copies of roznama which indicates

that the complainant had appeared on few occasion before the Trial Court and hence his contention about miscommunication with advocate is not correct.

5. Perusal of the record does not show that any malafides can be attributed to the appellant in not appearing before the Trial Court. Nothing could have been achieved by him by getting the said complaint dismissed for want of prosecution. At the same time it cannot be ignored that the respondent/original accused has also suffered to some extent by requiring to defend the proceeding before this Court. There is no dispute about the fact that the amount involved in the disputed cheque is Rs.50,000/-. Having regard to the said fact imposition of cost of Rs.2,000/- (Rupees Two Thousand only) payable to the accused would meet ends of justice. Hence in the interest of justice order dated 2nd July, 2019 is set aside S.C.C. No. 410/2018 is restored to the file on JMFC, Majalgaon, Dist. Beed.

6. Parties are directed to appear before the JMFC, Majalgaon, Dist. Beed on 24th July, 2023. Both counsel on instructions undertake on behalf of respective parties to appear before Trial Court on that day. No fresh notice to be issued to parties to their appearance. The learned JMFC to ascertain with tangible evidence on record that a cost of

Rs.2,000/- is already paid by the appellant to the respondent herein. If the cost is not paid on or before 24th July, 2023 this order shall stand vacated and this appeal shall stand dismissed without further reference to the Court.

7. Since proceedings before the Trial Court is more than five years old case, learned trial Court to decide the same expeditiously and in any case within a period of one year.

(R. M. JOSHI, J.)

ssp