

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

921 CRIMINAL APPEAL NO.963 OF 2022

GAJANAN LAXMAN ZADE
VERSUS
DATTA PANDHARINATH GHANWAT

...
Advocate for Appellant : Mr. Rajendra N. Chavan h/f
Mr. V. A. Bagdiya

....
CORAM : SANDIPKUMAR C. MORE, J.
DATED : 18/10/2023.

P. C. :

1. Heard learned counsel for the appellant at the admission stage.
2. The respondent / original accused despite service, remained absent.
3. The appellant / original complainant has challenged the order dated 16/07/2022 passed by the learned JMFC, Court No.1, Hingoli, whereby the complaint bearing SCC No.955 of 2019 filed by him, has been dismissed in default.
4. The learned counsel for the appellant/complainant submits that though the appellant initially attended the aforesaid case wherein process was also against the present respondent, but the applicant remained absent from 17/01/2020 and therefore, it was dismissed in default on 16/07/2022. The learned counsel for the appellant / complainant submitted that due to start of COVID-19

pandemic, the appellant failed to trace out the dates and therefore, remained absent. Though the reason for unattending the dates of the aforesaid case given by the appellant does not inspire confidence, but considering the fact that one opportunity needs to be given to the appellant to establish his case, the impugned order of dismissal can be set aside. Needless to say that certain cost needs to be imposed upon the appellant for his negligence. In view of the same and in the interest of justice, following order is passed.

ORDER

- I) The appeal is hereby allowed.
- II) The judgment and order dated 16/07/2022 passed by the learned JMFC (Court No.1), Hingoli in SCC No.955 of 2019 is hereby set aside subject to cost of Rs.3,000/- to be paid by the appellant to the Advocate Bar Association, Library, High Court, Bench at Aurangabad, within a period of one week.
- III) After deposit of cost, SCC No.955 of 2019 shall stand restored before the concerned court i.e. the learned JMFC (Court No.1), Hingoli for disposal according to law.
- IV) Appeal is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)