

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

APPLICATION FOR LEAVE TO APPEAL NO. 244 OF 2018

Dhanalaxmi Nagari Sahakari
Patsanstha Ltd.

...Applicant

vs.

Dadasaheb Laxman Pawar and Anr.

...Respondents

Mr. Kalpesh U. Patil - Advocate for the Applicant

Mr. Y. Y. Dabke - APP for the Respondent-State

Ms. Megha Bajoria – Appointed Advocate for the Respondent.

CORAM : S. M. MODAK, J.

DATE : 24th FEBRUARY, 2023

R. C. :-

1. Heard learned Advocate for the Applicant.
2. The learned Judicial Magistrate as per Order dated 17/04/2018 was pleased to dismiss the complaint by invoking power under Section 256 of the Criminal Procedure Code. This was done at the midst of the trial and particularly when non bailable warrant is pending against the Respondent-accused.
3. The Respondent-accused is served and he has written a letter informing that he is suffering from the 'Pulmonary-Tuberculosis' and he is unable to move out of the house as the disease is

contagious. Copy of the medical certificate is annexed. There should be representation through some one. Therefore, Ms. Megha Bajoria appointed as Advocate for the Respondents.

4. Heard learned Advocate for the respective parties.

5. It is true that though belatedly but the Applicant – Patsanstha gave evidence in the year 2015. Whereas case is of the year 2009. When the complaint was dismissed on 17/04/2018 the stage was return of non bailable warrant. The order is exfacie illegal. Special leave has to be granted. It is granted. Appeal is admitted. Special Leave application is disposed of.

[S. M. MODAK, J.]