

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO.488 OF 2023

Nainesh Jayantilal Sanghvi	...Applicant
<i>Versus</i>	
SKM Steels Limited & Ors.	...Respondents

Mr. R. S Tripathi a/w Mr. Chacko Joseph a/w Ms. Sneha P
Sonawane, *for the Applicant.*
Ms. P N. Dabholkar, *APP for Respondent No.3-State.*

CORAM: RAJESH S. PATIL, J
VACATION COURT

DATED: 11th May, 2023

PC:-

1. This Criminal Application is filed challenging the order dated 2nd February, 2023 passed by learned Metropolitan Magistrate, 6th Court Mazgaon, Sewree, Mumbai in the summons case i.e. C.C. No. SS/601648/2017 for quashing and setting aside the same.
2. The Applicant has today filed an affidavit of service which states that the clerk employed with the Advocate for the Applicant

on instructions has sent a copy of the Petition addressed to the original Complainant on 21st April, 2023 by speed post and the track report shows that the same was served on the original Complainant on 24th April, 2023. So also a copy was served by email to the original Complainant. The said affidavit further shows that as far as today's hearing is concerned. By an email the original complainant was informed that the matter will be on today's board for urgent hearing.

3. Nobody appears for the Complainant/Respondent No.1 even though they have been served.

4. The Applicant (Accused No.2) had preferred an Application (Exhibit – 220) before learned Metropolitan Magistrate, 6th Court Mazgaon, Sewree, Mumbai. The said Application was tilted as the Application under Section 96 of Insolvency and Bankruptcy Code, 2016, for stay of proceedings against Accused No.2. The said Application specifically mentioned about the provisions of Section 94, 95 and 96 of the Insolvency and Bankruptcy Code, 2016. The

said Application sought a relief that there should be stay to the proceedings against the Accused No.2 i.e. the present Applicant. The said Application was preferred on 4th March, 2022. The original Complainant opposed to the Application and filed a say.

5. Learned Metropolitan Magistrate, 6th Court Mazgaon, Sewree, Mumbai by his order dated 2nd February, 2023 simpliciter rejected the Application with cost of Rs.3000/-. No reasons were given by learned Metropolitan Magistrate, 6th Court Mazgaon, Sewree, Mumbai as to why the Application has been rejected.

6. The learned Metropolitan Magistrate, 6th Court Mazgaon, Sewree, Mumbai should have at least given reasons why the Application is not maintainable and the reasons for rejecting the Application. In view of the same the order dated 2nd February, 2023 passed by learned Metropolitan Magistrate, 6th Court Mazgaon, Sewree, Mumbai in the summons case i.e. C.C. No. SS/601648/2017, is hereby quashed and set aside. Learned Metropolitan Magistrate, 6th Court Mazgaon, Sewree, Mumbai is

hereby directed to hear the Applicant (original Accused No.2) and the Complainant on Application (Exhibit – 220) and, thereafter pass an appropriate reasoned order according to the provisions of law.

7. Accordingly, the Criminal Application No.488 of 2023 is disposed of as allowed.

(RAJESH S. PATIL,J.)