

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 529 OF 2006
WITH CRIMINAL APPLICATION NO. 683 OF 2017
IN WP/529/2006

Rajendra Vitthal Amrutkar

VERSUS

Dhiraj And Co. Proprietor

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Advocate for the Petitioner : Mr. PB. Patil

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CORAM : S.G. MEHARE, J.

DATED : JULY 23, 2024

PER COURT:-

1. History of the litigation reveals that interim relief was granted on 18.09.2006. After that, it was continued from time to time. However, on 10.06.2016, this Court observed that Criminal Revision Application No.278/2005 had been dismissed by the impugned order dated 14.08.2006 on the ground that the petitioner challenged the issuance of process dated 02.12.2002 by the learned Magistrate before this Court. The Revisional Court failed to note that the petitioner had withdrawn the said application from this Court for preferring a Revision Application before the learned Sessions Court. However, the copy of the order of this Court in Criminal Application No.1147/2005 was not filed. Hence, time was granted to comply with it. It was also observed that if none appeared for the respondent, the matter would be decided without the assistance of the respondent.

2. Then the matter was listed on 05.01.2017. Nobody was present for the petitioner. The Court observed that if nobody turns up for petitioner on the next date, the matter would be dismissed. Again, the matter was listed on 23.01.2017. At that time, counsel for the petitioner made a statement that he wanted to make additional prayer to the petition, like the relief of quashing the proceeding itself in respect of the petitioner and for that, he wanted to file a separate application and time was granted to him. Thereafter, the matter was directly listed on 03.12.2019. On that day, none appeared for the petitioner, even on the second call. Then, the matter was listed for 06.12.2019. On 06.12.2019, counsel for the petitioner was present since the respondent was not represented. Advocate R.D. Devdhe was appointed for the respondent, and then the matter was listed before this Court on 11.06.2024. Advocate Mr. R.D. Devdhe, appointed respondent, was absent on that day. That day also, nobody was present. Then, the matter was listed for final hearing on 09.07.2024. Since, on 09.07.2024, the matter could not be reached, it was listed for today.

3. The record reveals that the petitioner did not comply with the order dated 10.06.2016. The copy of the order passed in Criminal Application No.1147/2005 of this Court was not submitted. The application for adding the prayers was made. However, it was also not pursued. It seems that the petitioner has no interest. Even

today, neither the petitioner nor his counsel is present. The matter is unnecessarily pending before the Court against the order of the learned Judicial Magistrate passed in the complaint of 2002, which was filed under Section 138 of the Negotiable Instruments Act. The cheque in dispute was for Rs.3,78,056/-. It was the cheque issued to pay for the goods purchased on credit. It is really harassing a person who is entitled to recover the money for the goods supplied on credit. Regarding the merit part, prima facie, there was sufficient material before the Court to proceed with the matter. The cheque was placed before the Court. Perhaps the parties have settled the dispute amicably out of Court. Hence, they must have lost interest.

4. Considering the facts of the case and the history of litigation, the Court believes there is no propriety to keep the matter pending. Hence, on examining the merits of the case, the petition stands dismissed.

5. Criminal Application No.683 of 2017 stands disposed of.

6. The application for amending the prayer clause stands disposed of

7. After passing the order, learned counsel for the petitioner appeared at 04.45 pm.

(S.G. MEHARE, J.)