



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 869 OF 2024

Satyabhama Vitthal Sadaphule

VERSUS

Ms Abhijeet A Gaikwad A Proprietorship Concern Through Its
Sole Proprietor Abhijeet A. Gaikwad

Mr. A.D. Kulkarni, Advocate for Appellant

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 08th OCTOBER, 2024

ORDER :

1. Appellant has filed complaint bearing S.S.C. No.7306/2019, under section 138 of the Negotiable Instruments Act. By the impugned order dated 10.01.2024, passed by learned Additional Chief Judicial Magistrate-19, Ahmednagar, the same is dismissed for want of prosecution and for want of steps, and the respondent/accused is acquitted under section 256 of the Code of Criminal Procedure.

2. Heard learned advocate for appellant. Perused the memo of appeal, grounds raised therein and the impugned order.

3. It is the contention of the appellant that she is 80 years old and was prosecuting the complaint diligently, however, due to communication gap with her advocate, she could not attend the proceedings and the complaint is dismissed for want of prosecution.

4. Complaint is filed for dishonour of cheque of Rs.9,50,000/- and the appellant is diligently prosecuting the same since the year 2019. Considering the advanced age of appellant and communication gap with her advocate, fair opportunity needs to be given to the appellant to prosecute her case on merit. The impugned order is, therefore, liable to be quashed and set aside.

5. In the result, the appeal is allowed. Impugned order dated 10.01.2024, passed by learned Additional Chief Judicial Magistrate, Court No.19, Ahmednagar in S.C.C. No. 7306/2019 is quashed and set aside.

6. The matter is remanded back to the trial Court for decision on merit.

7. The appellant shall pay costs of Rs.5,000/- to the respondent/accused in the Trial Court.

[NITIN B. SURYAWANSHI]
JUDGE