



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 930 OF 2024

Suryakant Raosaheb Kolhe
VERSUS
Ajit Krushnarao Kadam And Others

.....
Mr. Nilesh N. Bhagwat, Advocate h/f Mr. T.C. Shinde, Advocate
for Applicant

.....
[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th OCTOBER, 2024

ORDER :

1. By this appeal filed under section 378 (4) of the Code of Criminal Procedure, appellant challenges the order dated 29.04.2023 passed by learned Judicial Magistrate, First Class, Ahmednagar below Exhibit-1 in Criminal M.A. No.61/2018, thereby dismissing the complaint filed by appellant under section 138 of the Negotiable Instruments Act, for want of prosecution.

2. Heard learned advocate for appellant. Though served, none appears for respondent.

3. It appears from the impugned order that the matter was kept in special drive and none appeared for the appellant/complainant. Since no application was filed on record, and as the case was pending for more than four years, matter is unattended since long time, the complaint is therefore dismissed for want of prosecution.

4. Learned advocate for appellant submits that matter was pending for report under section 156(3) of the Code of Criminal Procedure since the year 2018. Till the date of dismissal of the complaint, report was not received by the trial Court.

5. Considering the fact that report under section 156(3) of the Code of Criminal Procedure was not received from the year 2018 till the date of dismissal and as the matter was kept pending in special drive, the appellant or his advocate could not attend the matter, and as the appellant was prosecuting the matter since the year 2018, fair opportunity needs to be given to the appellant for prosecuting the matter on merit. Hence, the following order:

ORDER

(I) Criminal Appeal is allowed.

(II) Impugned order 29.04.2023 passed by learned Judicial Magistrate, First Class, Ahmednagar below Exhibit-1 in Criminal M.A. No.61/2018, is hereby quashed and set aside.

(III) The matter is remanded back to the trial Court for decision on merit.

**[NITIN B. SURYAWANSHI]
JUDGE**