



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PRIVATE PARTY NO. 129 OF 2022

Bhausahab Dadaji Deore,
Age : 51 years, Occu: Agri. & Business,
R/o 38/53, Shiv Colony, Jalgaon,
Taluka and District Jalgaon.

... Applicant
[Orig. Complainant]

Versus

Khatik Mahemood Akhtar,
Age 49 years, Occu : Business,
R/o New Plot Tambapura, Amalner,
Taluka Amalner, District Jalgaon.

... Respondent
[Orig Accused.]

.....
Mr. Vinod P. Patil, Advocate for the Appellant.
Respondent-sole served.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 28.02.2024

Pronounced on : 04.03.2024

ORDER :

1. Vide instant application, original complainant is seeking leave to file appeal against order dated 07.06.2019 passed below Exhibit 1 in S.C.C. No. 3540 of 2012 by 4th JMFC (Court No.2), Jalgaon.

2. Learned counsel for the applicant submitted that present applicant had instituted proceedings under Section 138 of the Negotiable Instruments Act, 1881 [NI Act] bearing S.C.C. No. 3540 of

2012, alleging commission of offence by present respondent. He further pointed out that learned trial court by order dated 27.09.2013, on its due satisfaction and verification, issued process against the accused. However, by order dated 07.06.2019, dismissed the complaint for want of prosecution.

3. Learned counsel further pointed out that the counsel representing him before the trial court came to be appointed as District Government Pleader and due to heavy work load in his office, he missed the dates in the matter. That, learned trial court dismissed the complaint on 07.06.2019 for want of taking steps and it is not decided on merits and hence the instant leave application.

4. Though sole respondent is served, none appeared for the respondent.

5. Apparently, proceedings under Section 138 of the NI Act were instituted by present applicant, alleging dishonour of cheque. Record shows that learned trial court has also verified complaint as well as complainant and thereafter, has issued process by order dated 27.09.2013. Complaint seems to be dismissed by order dated 07.06.2019 precisely for want of prosecution.

6. Considering the above and in view of a fair opportunity to contest the proceedings, leave deserves to be granted. Hence, I proceed to pass the following order:

ORDER

- I. Application stands allowed.
- II. Leave is granted to file appeal.
- III. Registry to register the appeal.

[ABHAY S. WAGHWASE, J.]

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