

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (APPA) NO.32/2023
WITH
CRIMINAL APPEAL STAMP NO. 5437/2022

State of Maharashtra through Ku. R.G. Patil, Round Officer Botoni (Chi.) Tq.
 Maregaon, District - Yavatmal

Vs.

Vivek Narhari Naranje

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

 Court's or Judge's orders

Shri M.J. Khan, APP for State
 Ms Kirti Deshpande, Advocate h/f Shri Tejas Deshpande,
 Advocate for respondent

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 29/07/2024

Leave is granted.

2. Heard learned APP Shri Khan for the appellant and the learned Counsel Ms Kirti Deshpande for the respondent. Learned APP Shri Khan submitted that the Round Officer, Botoni, Tq. Maregaon, District Yavatmal, filed Regular Criminal Case No. 70/2019 under Sections 26(1)(d), 26(1)(f) of the Indian Forest Act, 1947 read with Rules 41 and 42 of the Maharashtra Forest Rule, 2014, alleging that on 28/12/2018, Shri V.M. Vetti, Forest Guard and other Forest Officer were on patrolling duty, at that time, they got secrete information that the accused kept forest articles in his house at Mouza Sarati, therefore, they all conducted the raid at his house and seized forest articles, prepared panchanama and registered

POR No.114/2007, dated 28/12/2018 against the accused. Thereafter, the informant recorded the statements of the various witnesses and filed the complaint in the Court.

3. After taking cognizance, summons were issued. In response to the summons, the accused appeared and released on bail. Thereafter, the matter was put up for evidence before charge, but the complainant could not remain present and, therefore, the criminal complaint was dismissed by acquitting the accused.

4. Learned APP submitted that due to the pregnancy, the complainant Reena Gulabrao Patil @ Reena Sachiv Meshram has not attended the Court and, therefore, the Court has dismissed the complaint. Thus the dismissal of the complaint and the acquittal of the accused on technical grounds. He also placed on record the medical certificate along with pursis, which shows that the complainant at the relevant time was admitted in the hospital due to pregnancy and she has delivered the child on 03/05/2022. It shows that due to the pregnancy, the complainant could not attend the proceeding and, therefore, the complaint was dismissed and the accused was acquitted. Thus, on the technical ground, the accused was acquitted from the charges.

5. The learned Counsel Ms Kirti Deshpande, strongly opposed the said appeal on the ground that

after sufficient opportunity granted to the complainant, she could not adduced the evidence and thereafter, the matter was dismissed. Thus, appeal is devoid of merits and liable to be dismissed.

6. In support of the contention, the learned APP placed reliance on **Meera Shripat Admane Vs. Chief Officer Sangamner Municipal Council**, reported in **2001 Law Suit (SC) 254**, wherein, the Hon'ble Apex Court considered the aspect that due to the sickness, the complainant could not attend the proceeding and held that appeal deserves to be allowed.

7. After perusal of the record and the impugned order, it reveals that the complaint was dismissed for the non appearance of the complainant. The Medical Certificate which is placed on record sufficiently shows that at the relevant time, the complainant was taking treatment as she was pregnant and subsequently she delivered a child. Thus, there is a sufficient reason for not attending the complainant and not adducing the evidence. Thus, on the technical ground, the complaint came to be dismissed.

8. In view of that, the appeal deserves to be allowed by remanding back the matter to the learned Judicial Magistrate First Class, District Yavatmal. The complainant is directed to present before the concerned Magistrate on 16/08/2024, whereafter, the Magistrate will fix the hearing of the case and dispose it of in accordance with law. The respondent shall also

remain present on 16/08/2024 before the Magistrate and cooperate. The respondent shall remain present before the Magistrate Court accordingly. In view of that I proceed to pass the following order:

ORDER

(i) The impugned judgment and order passed by the learned Judicial Magistrate First Class, Maregaon, is hereby quashed and set aside.

(ii) The Criminal Case No.70/2019 remanded back to the trial Court.

(iii) The complainant and the accused shall appear before the Magistrate Court on 16/08/2024 and shall cooperate to the Court to dispose of the trial expeditiously.

9. The appeal is disposed of.

JUDGE

R.S. Sahare