



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APPLICATION FOR LEAVE TO APPEAL BY PRIVATE PARTY NO. 95 OF 2025

Shantabai Manohar Palvade

Age: 53 years, Occupation : Household,
R/o. Behind Union Bank, Barshi Road,
Beed., Tq. & Dist.Beed.

..Applicant
(Ori. Complainant)

Versus

Balaji Madhukar Gharat

Age: 32 years, Occu.: Business,
R/o. Gharat Hardware, Infront of Satyam Water
Supplier, Canol Road, Beed, Tq. & District Beed.

..Respondent
(Orig. Accused)

...

Advocate for Applicant : Mr. Shashikant E. Shekade

Advocate for Respondent : Ms.Reshma A.Sakhare h/f.

Mr.Dnyaneshwar Bhaurao Pokale

....

CORAM : ABHAY S. WAGHWASE, J.

DATE : 09 JULY, 2025

PER COURT :-

1. Instant leave application is at the behest of original complainant, whose proceedings under section 138 of Negotiable Instruments Act came to be dismissed for want of prosecution.

2. Learned counsel for the applicant pointed out that, proceedings bearing S.C.C. No.335 of 2019 was instituted against

present respondent alleging offence punishable under section 138 of N.I Act. After all essential procedural steps were completed, complaint was filed and duly registered. It is further pointed out that, on satisfaction, learned trial court also issued process. However, finally complaint to be dismissed by exercising powers under section 256 of the Code of Criminal Procedure (Cr.P.C.) i.e. for want of prosecution. It is pointed out that, in fact matter had reached to a stage of evidence, but learned trial court passed above order. Applicant has then filed revision application, however, the same is also rejected.

He pointed out that, this court had on earlier occasions, set aside such orders and had directed trial court to proceed with the matter by giving fair opportunity to both sides. Hence, prayers for granting leave and if possible to remand the matter to trial court with directions to take it to the logical end.

3. Learned counsel for respondent opposed on the ground that, there was no prosecution for long time. Therefore, learned trial court committed no error in exercising powers under section 256 of Cr.P.C. He prays to refuse leave.

4. Heard. Perused the papers. Proceeding bearing S.C.C. No. 335 of 2019 seems to be instituted against present respondent alleging that due to cordial relations, he issued hand-loan of Rs.2,90,000/- to respondent and the respondent issued cheque towards repayment of the same, but the same was dishonoured and even when after despatch of statutory notice, cheque amount was not paid, above proceedings was instituted.

5. Record shows that, learned trial court issued process, thereby issuing summons to the accused. It seems that, on 11-05-2022, 22-06-2022 and 20-08-2022 complainant and his Advocate were absent. On 20-08-2022, finding complainant and his advocate absent, it is ordered that, no effective steps are taken since long and hence matter came to be dismissed for want of prosecution. The complainant had filed revision against the aforesaid order, but the same came to be dismissed on 20-02-2023 as not maintainable. Said orders are now challenged and heavy reliance is placed on previous order of this court in Criminal Appeal No. 130 of 2017 and ALP No. 48 of 2019.

6. There is no serious challenge by respondent. Apparently,

accused seems to be discharged on sole ground of non persecution. Learned counsel for applicant read over the submissions regarding henceforth to be due diligent in conducting the matter without fail.

7. Considering the above, as a fair opportunity, leave is required to be granted. Hence following order :

ORDER

- (i) Application stands allowed.
- (ii) Leave is granted to file Appeal.
- (iii) Registry to register the Appeal.
- (iv) List the appeal on 15-07-2025.

(ABHAY S. WAGHWASE)
JUDGE