



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

946 CRIMINAL APPEAL NO. 522 OF 2025

S M. Thormote Patil Petroleum,
Prop.Pri. Naresh s/o Madhavrao Patil
Age: 37 years, Occu.: Business,
R/o. Vasangaon, Latur,
Tq. & District Latur.

..Appellant
(Orig. Complainant)

VERSUS

Raju @ Rajkumar s/o Chandrashekhar Kasapnur
Age: 45 years, Occu.: Business,
R/o. Vijay Tour's and Travels,
Before Datt Mandir, South side,
Of Patil Plaza, Sad Pan Material,
Latur, Tq. And Dist.Latur.

..Respondent
(Orig. Accused)

...
Advocate for Appellant : Mr. Rahul Pandhari Cheble
Advocate for Respondent : Mr.S.R.Mhaske h/f. Mr.D.S.Patil

....

CORAM : ABHAY S. WAGHWASE, J.

DATE : 15 JULY, 2025

ORDER :-

1. Heard.
2. Record shows that initially leave to file appeal was sought by filing application no.174 of 2024. This Court vide order dated 10-07-2025, allowed the said leave application and directions were issued to register the appeal after removal of office objections.

3. Record shows that, learned trial Court issued process, thereby issuing summons to the accused. It seems that, plea was recorded on 01-12-2023 and matter was posted for evidence. Complainant filed adjournment applications on 05-03-2024, 08-08-2024 and 24-09-2024. Again on 22-10-2024, complainant was absent and his advocate sought adjournment. Therefore, it is ordered by the learned trial Court that, complainant is not interested to proceed with the matter and accordingly, complaint was dismissed for want of prosecution under Section 256 of the Code of Criminal Procedure.

4. Learned counsel for the appellant submitted that, the matter was diligently contested by the appellant in the trial Court. That, on 05-03-2024, 08-08-2024 and 24-09-2024 adjournments were sought on behalf of appellant as he was out of station. That, on 22-10-2024, his Advocate visited Udgir Court to appear in one urgent matter and his Junior Advocate sought adjournment. However, learned trial Court has passed impugned order and dismissed complaint for want of prosecution. Therefore, the learned counsel for appellant prays for allowing the appeal.

5. Learned counsel for respondent opposes on the ground that inspite of giving sufficient opportunity, appellant remained absent in the matter. Therefore, learned trial Court passed an appropriate order. He prays to dismiss the appeal.

6. In view of above submissions, this Court is of the view that, complainant cannot be deprived of his right to prosecute accused if at all there is case made out to that extent. Therefore, in the interest of justice, it would be just and proper to remand the matter back to the learned trial Court, who shall afford opportunity to both sides to adduce their respective evidence and come to its independent conclusion. Hence, I proceed to pass following order :

ORDER

- (i) The appeal is partly allowed.
- (ii) The impugned order dated 22-10-2024 passed by the learned Judicial Magistrate First Class (Court No.2), Latur in S.C.C. No.545 of 2019 is quashed and set aside.
- (iii) The matter is remanded back to the trial Court.
- (iv) Parties are directed to appear before the learned trial Court on 04-08-2025.

(v) The learned trial Judge to give opportunity to both the sides to adduce evidence, conduct trial and decide the matter on its own merits.

(vi) The appeal is accordingly disposed of.

(ABHAY S. WAGHWASE)
JUDGE

SPT