



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

947 CRIMINAL APPEAL NO. 523 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 Appellant : Mr. Shashikant E. Shekade

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

Mr.Dnyaneshwar Bhaurao Pokale

....

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.95 of 2025. This Court vide order dated 09-07-2025, 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, 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 by the trial Court 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. Hence, this appeal.

4. Learned counsel for the appellant submitted that, the matter was diligently contested by the appellant in the trial Court. That, affidavit of examination-in-chief was also filed in the trial Court. That, on 20-08-2022, the Advocate for the appellant was present in the trial Court, however, impugned order has been passed without application of mind. That, the learned trial Court has mis-read and mis-conceived the provisions under Section 256 of the Code of Criminal Procedure. Therefore, the learned counsel for appellant prays for allowing the appeal.

5. Learned counsel appearing for respondent objected for allowing the appeal.

6. In view of above submissions and 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 20-08-2022 passed by the learned Judicial Magistrate First Class, Beed in S.C.C. No.335 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