



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PVT. PARTY NO.161 OF 2024

Sachin Agencies, Through its Proprietor,
Kachrual Ramnath Gilda,
Age : 66 years, Occu. : Business,
R/o. Bajar Galli, Badnapur,
Tq. Badnapur, Dist. Jalna.

... Applicant

Versus

Gaurav Krishi Seva Kendra,
Through its Proprietor,
Kailas Bhagwan Deshmukh,
Age : 46 years, Occu. : Business,
R/o. In front of Gurudev Collection,
Jalna - Aurangabad Highway Road,
Badnapur, Tq. Badnapur, Dist. Jalna.
At present Chikhli, Tq. Badnapur,
Dist. Jalna.

... Respondent.

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Mr. A. P. Bhandari, Advocate for Applicant.
Mr. M. L. Kolhe, Advocate for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 09 DECEMBER 2025

PRONOUNCED ON : 10 DECEMBER 2025

ORDER :

1. Vide this application leave is sought to prefer appeal against judgment and order of acquittal dated 22.07.2024 passed by learned Judicial Magistrate First Class, Badnapur in S.C.C. No.147/2018 acquitting respondent from the charge under section 138 of Negotiable Instruments Act.

2. Learned counsel for applicant pointed out that, present applicant had instituted proceedings under section 138 of N.I. Act against respondent bearing S.C.C. No.147/2018. That, on 20.09.2019, learned trial court was pleased to verify the complaint and also on satisfaction, pleased to issue process. That, meanwhile, there were chances of amicable settlement by way of mediation, and therefore, joint pursis was placed on record on 24.11.2023. That, subsequently matter was on the board on 22.07.2024 and on that day, learned trial court formed an opinion that parties have not appeared and reported about the progress of mediation and holding that case is of more than five years old, dismissed the complaint for want of prosecution.

3. Learned counsel for respondent would support the order and urges to refuse the leave.

4. After hearing the submissions of both sides and on going through the papers, it is emerging that S.C.C. No.147/2018 was instituted by present applicant on 12.09.2018. It appears from the impugned order itself that learned trial court was pleased to issue process by order 20.09.2019. From the very order itself, it is also emerging that after plea of accused recorded on 29.08.2023 and matter was posted for evidence on

09.09.2023, complainant failed to adduce evidence. However, learned trial court in impugned order itself, has stated that, matter was referred for mediation. Neither complainant nor accused appeared and no report about the progress of the mediation was submitted and therefore learned trial court seems to have formed an opinion that there was an attempt to prolong the matter and matter being five years old, complaint has been dismissed by invoking section 256 Cr.P.C.

5. Apparently from the impugned order itself, it seems that matter has been referred for mediation and its report was said to be awaited. Merely on failure of both the parties to convey the progress of the mediation and matter is five years old, impugned order seems to have been passed. Therefore, case is made out for grant of leave and accordingly following order is passed :-

ORDER

- (i) Application stands allowed.
- (ii) Leave is granted to file Appeal.
- (iii) Registry to register the Appeal.

(ABHAY S. WAGHWASE, J.)