

Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 2173 OF 2023

Mahadev Sadashiv Ghadage .. Applicant

Vs.

Namdev Baban Barakade & Anr. .. Respondents

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Mr. Kalpesh U.Patil for the applicant
Dr. D.S. Krishnaiyer, APP for the respondent – State
Mr. Dushant Digamber i/b Mr. Mayur Shinde for the respondent
no.1

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 21st JANUARY, 2025.

P.C.

1. Learned JMFC, Khandala, Dist. Satara by an impugned order dated 8th September 2023 dismissed the complaint filed by the applicant under Section 138 of the Negotiable Instrument Act in view of Section 256 of the Cr.P.C. for want of effective steps being taken by the complainant. Learned Magistrate has specifically observed that the complaint is pending since last 8 years.

2. Learned Counsel for the applicant submits that cross-examination of the complainant was completed by the accused, meaning thereby the matter was part heard. The Magistrate ought not to have dismissed the complaint though it was pending for 8 years in light of the fact that the cross-examination of the complainant was over. The complaint could have been decided on its own merits after giving due opportunity to the parties.

3. For the aforesaid reason, the order of dismissal passed by the Magistrate is quashed and set aside. The complaint is restored on the file of the learned JMFC, Khandala. The acquittal of the accused is also quashed and set aside, subject to costs of Rs.2,000/- to be paid by the complainant to the respondent – accused on the first day of appearance before the learned Magistrate.

4. The parties shall appear before the learned Magistrate on 17th February, 2025. The Magistrate shall proceed further in accordance with law without granting unnecessary adjournment

to any of the parties.

5. The application stands disposed of in the aforesaid terms.

(PRITHVIRAJ K. CHAVAN, J.)