

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

CRIMINAL APPLICATION NO.520 OF 2019

Ramesh Bhimrao Hegadkar Applicant

V/s.

Uddhav Mohan Nalawade & Anr. Respondents

Mr.Rajesh Ranglani h/f Mr.Priyal G. Sarda, for the Applicant.

Mr.Kiran C. Shinde, APP, for Respondent-State.

Mr.Prashant D. Patil, for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 02nd APRIL 2025

P.C:-

. Heard learned counsel for the Applicant and learned
APP for the Respondent-State.

2. The Judicial Magistrate First Class, Karmala, District-
Solapur (for short “the Trial Court”) has dismissed the complaint
filed by the applicant under Section 138 of Negotiable
Instruments Act, 1881 (“N.I.Act”) on the ground of non presence
of complainant and his Advocate. The Trial Court has passed
order below Exhibit-1 observing that for long dates complainant
and his Advocate are absent and they have not taken steps for

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securing the presence of the accused. On that ground the Trial Court has dismissed the complaint filed by the applicant and has acquitted the accused under Section 256 of Code of Criminal Procedure, 1973.

3. Perused the roznama produced on record. It shows that Advocate for the applicant was pursuing the matter. The NBW was issued against Respondent/Accused. Roznamma shows that, it was not served on him, but this fact is not considered by the learned Trial Court and in haste, has dismissed the complaint. The order passed by the Trial Court appears to be perverse, hence I pass following order.

ORDER

- (i) The application is allowed.
- (ii) The order dated 10.11.2016 passed by the Judicial Magistrate First Class, Karmala, District-Solapur is quashed and set aside.
- (iii) The matter is restored before the Trial Court for fresh hearing.
- (iv) The complainant shall appear before the Trial Court on 9th April, 2025 at 11:00 a.m. and take necessary steps.

(SHIVKUMAR DIGE, J.)