

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.903 OF 2024
WITH
CRIMINAL APPEAL NO.904 OF 2024

Adamji Investment Pvt. Ltd. Appellant

V/s.

Union Quality Plastics Ltd. & Ors. Respondents

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Mr.Gaurav Chongrani (Present in Court) & Mr.Lokesh Zade, for
the Appellant (Through V.C.)

Mr.Sachin R. Agawane, for the Respondent Nos.1 to 3.

Mr.Hitendra J. Dedhia, APP, for Respondent No.4-State.

CORAM : R.M. JOSHI, J.

DATE : 4th NOVEMBER 2025

P.C:-

. By consent both the appeals are heard finally at the
stage of admission, together and decided by this common order.

2. These Appeals take exception to the order dated 25th
April 2023 passed in CC No.7001117/SS/2020 and
70011780/SS/201920 dismissing the complaints filed under
Section 138 of the Negotiable Instrument Act, for want of
prosecution.

3. The learned counsel for the Appellant submits that, on account of miscommunication between the counsel and the complainant, the proceedings before the Magistrate could not be attended, and ultimately resulted in its dismissal. It is his submission that in the interest of justice require that the order impugned be set aside even by imposing reasonable costs. The learned counsel for the Appellant, on instructions, makes statement that the Complainant would attend the said proceedings regularly on each date whenever his personal presences is required.

4. The learned counsel for the Respondent opposed the Appeal by contending that for a period of over more than six months the Complainant failed to cause appearance before the Magistrate. This according to him indicate that complainant had lost interest in prosecuting the said complaint. As such it is not a case for allowing the Appeal.

5. There is no dispute about the fact that after filing of the Complainant before the Magistrate, the proceedings have reached to the stage of filing of affidavit of evidence by the

Complainant. It is after filing of affidavit in the lieu of evidence, the Complainant has failed to cause his appearance before the Court which has resulted into dismissal of the said proceeding. Filing of the affidavit of the evidence indicates that Complainant was intending to proceed with the said complaint. This Court therefore has reason to believe that on account of miss communication between the counsel and the Complainant, the proceedings were not attended to. Having regard to the facts of the case and in the interest of justice it is a fit case wherein the orders impugned deserves to be set aside by imposing cost of Rs.10,000/- in each Appeal, payable to the Respondent-Accused. In the view of the above following order.

ORDER

- (i) Both appeals stands allowed.
- (ii) The proceeding bearing CC No.7001117/SS/2020 and 70011780/SS/201920 stands restored to the file of the Metropolitan Magistrate No.70th at the stage of its dismissal.

(iii) Parties are directed to cause appearance before the Magistrate on 16th December 2025. Magistrate is not required to issue any fresh notice to the parties.

(iv) Learned Magistrate to ensure that the amount of the cost is paid to the accused or deposited before the said court on or before the date of appearance.

Payment of the cost would be pre condition for restoration of the proceedings before the Magistrate.

In case cost is not paid these Appeals shall stand dismissed without reference to the Court.

(v) In case cost is paid Magistrate to decide the cases in accordance with law.

(R.M. JOSHI, J.)