

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
APPLICATION FOR LEAVE TO APPEAL NO. 110 OF 2025**

Vimala Rathore ... Applicant
versus
The State of Maharashtra Respondent

Mr. Sarvesh Deshpande i/b. Mr. Bharat Gadhavi, Advocate for the Applicant.
Mr.K.C. Shinde, APP for Respondent No.1-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 30th APRIL, 2025.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the Respondent No.1-State.
2. I am deciding this matter on merit without issuing notices to the respondents as complaint was dismissed for non-prosecution.
3. The Learned Extra Addl. Chief Judicial Magistrate at Thane, (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 absence of complainant and his advocate. The Trial Court has passed order below Exhibit-1 observing that the case is pending since 2015 without progress and the absence of the complainant goes to show that he is disinterested in the case and there is no alternate way, except to dismiss the complaint. 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.

4. Perused the roznama produced on record. It shows that the advocate for the applicant was pursuing the matter, 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 13.06.2023 passed by the Extra Additional Chief Judicial Magistrate, Thane 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 10th June 2025 at 11:00 a.m. and take necessary steps.

(SHIVKUMAR DIGE, J.)