

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

**CRIMINAL APPLICATION NO. 128 OF 2025
(LEAVE TO APPEAL)**

Shop CJ Network Private Limited represented
by Director Rakesh Baluram Lahoti ...Appellant

V/s.

The State of Maharashtra and Ors ...Respondents

Mr. Balkrishna Pathak, Advocate for the Appellant.
Ms. R. D. Humane, APP for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 25.08.2025.

P.C. :

1. This appeal filed under Section 378 of the Criminal Procedure Code takes exception to the order dated 09.02.2023 passed by the learned Metropolitan Magistrate, Ballard Pier, Mumbai, in C. C. No. 10231/SS/2016, by which the learned Magistrate has dismissed the complaint filed by the present appellant under Section 138 of the Negotiable Instruments Act for want of prosecution and acquitted the respondent-accused.

2. On 12.06.2025 this Court passed the following order:
The complaint filed by the Applicants for an offence

under Section 138 of the N.I. Act was dismissed for default on 9th February 2023. Leave to file Appeal is sought.

2. Issue notice to Respondent Nos. 2, 3 and 4, returnable on 17th July 2025. In addition to Court notice, private notice is allowed including email and whatsapp. Service affidavit be filed.

3. Considering the narrow controversy, an endeavour should be made to dispose of matter finally at the admission stage.

3. I have heard the learned counsel for the appellant. None appears for contesting respondents, inspite of service.

4. The learned counsel for respondent No.1 has drawn my attention to paragraph Nos. 7 and 8 of appeal memo. It is submitted that non-appearance before the trial Court was not deliberate but due to unavoidable circumstances mentioned in the said paragraphs.

5. Considering the overall facts and circumstances, I am inclined to restore the complaint case in question. In the result, the following order is passed:

ORDER

- a] The Appeal is allowed.
- b]. The impugned order dated 09.02.2023 is set aside.
- c]. The complaint case No. 10231/SS/2016 is restored to the file of the learned Metropolitan Magistrate, Ballard Pier, Mumbai, for disposal in accordance with law.
- d]. The Appeal is disposed of in the aforesaid terms. .

[N.R.BORKAR, J.]