



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION FOR LEAVE TO APPEAL (PVT) NO.196 OF 2025

Vora Fabrics

...Applicant/Appellant

V/s.

Sanju Kumar and Anr.

...Respondents

Mr. Adnan Mookhtiar *for the Applicant/Appellant.*

Ms. Ranjana Humane, *APP for Respondent-State.*

CORAM: SANDEEP V. MARNE, J.

DATED: 26 NOVEMBER 2025.

P.C.:

1) This an application seeking leave to file appeal against order dated 19 April 2025 passed by the learned Judicial Magistrate, First Class, 25th Court, Mazgaon, Mumbai, dismissing the complaint under Section 256 of the Code of Criminal Procedure, 1973 (**the Code**).

2) For the reasons pleaded in the Application and considering the order that is proposed to be passed in the Appeal, leave is granted to file Appeal.

3) I have heard Mr. Mookhtiar, the learned counsel appearing for the Appellant and have considered the submissions

canvassed by him. It appears that requisite steps were taken by the Appellant to secure presence of the Respondent before the Magistrate and it appears that he is not traceable at the known address. In that view of the matter, no point would be served in issuing any notice to the Respondent in the present case. Also, since the complaint is dismissed under Section 256 of the Code in absence of Respondent No.1, it is not necessary to spend time in serving notice of present Application and Appeal on him.

4) It is pointed out that the learned Magistrate has erred in holding that no steps were taken for securing presence of the accused. My attention was invited to Application dated 24 June 2024 for issuance of non-bailable warrant for arrest. It appears that the said application was allowed and by order dated 24 June 2024, NBW was directed to be issued. Thereafter complaint was listed on 6 September 2024 when the Magistrate ought to have considered the NBW report in pursuance of order dated 24 June 2024. However, the complaint was adjourned for taking steps. On 19 April 2025, the learned Magistrate proceeded to dismiss the complaint under Section 256 of the Code.

5) It appears that the learned Magistrate has erroneously dismissed the complaint by accusing the Appellant of not taking any effective steps. It appears that the Appellant has taken necessary steps to secure presence of the accused. Though the NBW of arrest was directed to be issued on 24 June 2024, the learned Magistrate has not bothered to examine as to whether the said warrant was served on the accused or not. The finding recorded by the Ld. Magistrate about Appellant failing to take steps to secure presence of accused appears to

be contrary to the records. In that view of the matter, it would be appropriate to restore the complaint by setting aside the impugned order dated 19 April 2025.

6) Accordingly, order dated 19 April 2025 is set aside. Criminal Complaint No.1007/SC/2021 is restored on the file of Judicial Magistrate, First Class, 25th Court, Mazgaon, Mumbai, who shall proceed to decide the same in accordance with law.

7) Leave Application and the Appeal are accordingly **disposed of** in above terms.

[SANDEEP V. MARNE, J.]