



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO.230 OF 2025
IN
CRIMINAL APPEAL STAMP NO.1811 OF 2025

Ankit s/o Subashchandra Khatri

Vs.

Avenash Prabhu Khambete

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. S. Sitani, Counsel for the applicant.

Mr. D. D. Vaidya, Counsel for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 15/07/2025

1. By preferring this application, the applicant is seeking leave to prefer an appeal.

2. It is submitted by the learned Counsel for the applicant that the applicant has filed a complaint under Section 138 of the Negotiable Instruments Act bearing SCC No.21262/2021, and initially, it was pending before the 11th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Nagpur. Subsequently, it was transferred to the 10th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Nagpur. As the complainant was absent and therefore, the complaint is dismissed in default for non-prosecution and accused is acquitted for the offence punishable under Section 138 of the N.I. Act. He submitted that before dismissal of the complaint, the complainant was not aware about the

transfer of the complaint and he remained absent. No notice was issued to him. Thus, the order passed by the 10th Joint Civil Judge Senior Division and Additional Chief Judicial Magistrate, Nagpur is wrong and illegal, which resulted into the acquittal of the accused.

3. Learned Counsel for the respondent strongly opposed for the same and submitted that after sufficient opportunity, the complainant remained absent and therefore, the said order came to be passed. Considering the grounds raised in the application, at this stage, the complainant has made out a case for grant of leave.

4. Leave is granted.

5. Appeal be numbered.

6. The application is disposed of.

Criminal Appeal Stamp No.1811/2025

1. On registration of the appeal, Call for record and proceedings.

2. Learned Counsel Mr. D. D. Vaidya for the respondent waives notice.

3. On receipt of the record and proceeding, appeal be listed for the final disposal.

(URMILA JOSHI-PHALKE, J.)