



Judgment

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

CRIMINAL APPEAL NO. 272 OF 2014.

Sawan Baldeoraj Sahani,
Proprietor of M/s. Punjab Agrovet
Industries, Age 41 years, Occupation
Business, resident of P.N.B. Building,
Indora Chowk, Nagpur.

... APPELLANT.

VERSUS

Smt.Anita Raju Wargis,
Age Major, Occupation – Business,
Proprietor of M/s. Sona Poultry Farm,
resident of c/o Sonu Fresh Chicken,
Itwara Bazar, Wardha.

... RESPONDENT.

None for the Appellant.
Mr. C.F. Bhagwani, Advocate for the Respondent.

CORAM : M.M. NERLIKAR, J.

DATE : DECEMBER 12, 2025.

ORAL JUDGMENT :

This appeal preferred by the appellant, challenges the

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order dated 04.09.2010 passed by the Judicial Magistrate, First Class, Court No.5, Nagpur below Exh.1 in Complaint Case No.3228/2009, by which the complaint filed by the appellant came to be dismissed for absence of the complainant and his Counsel. As a result of which the accused came to be acquitted of the charge under Section 138 of the Negotiable Instruments Act.

2. This appeal was admitted on 09.04.2014. The original proceedings are of the year 2009. After admitting the matter, it reveals that none had appeared for the appellant. This Court by order dated 04.11.2025 has issued notice to the appellant and the same was made returnable on 18.11.2025. Though notice was served on the appellant, in order to give one more opportunity, the matter was adjourned to today by order dated 05.12.2025. However, today also there is no appearance on behalf of the appellant. In these circumstances, the matter is taken up for final hearing.

3. I have heard the learned Counsel for the respondent and with his assistance perused the record. Perusal of the record shows

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that the appellant has contended that the proceedings were transferred to the Evening Court on 17.04.2010, and he had a grievance with the said Presiding Officer of the Evening Court and therefore, had made a representation to the Principal District Judge, Nagpur, however, he has not received any response. Accordingly he went to the Evening Court on 17.07.2010, for attending the matter, however, the case was not traceable and therefore, the matter was adjourned to 25.08.2010, on which date also the case could not be traced. The matter was accordingly adjourned to 15.10.2010. It is further stated by the appellant that his Counsel has gone to attend some other matter before the Judicial Magistrate First Class Nagpur on 11.08.2010 and noticed that the present matter which was pending before the Evening Court has been transferred to the Court of J.M.F.C. Court No.5 without any notice. Thereafter, an adjournment application was moved before the learned JMFC, which was allowed. When the appellant asked the bench clerk about the next date which was fixed, it was informed that the case is fixed for 15.10.2010. However, when the appellant went to attend the matter on 15.10.2010, he was

informed that the said matter was dismissed on 04.09.2010.

4. The learned Counsel for the respondent vehemently opposed the appeal on the ground that there is no sufficient cause shown by the appellant to consider the appeal. He states that even in this appeal, though several opportunities are granted to the appellant, there is no appearance from his side, which shows that he is not interested in prosecuting the matter. He therefore, prays that the appeal be dismissed.

5. It appears from the record that though several grounds are raised by the appellant, but, nothing has been placed on record to substantiate those grounds. The grounds which are put forth cannot be believed in absence of any material on record. Therefore, considering the fact that the appellant has failed to make out a case, I am not inclined to interfere with the impugned order. Criminal Appeal therefore, fails and is dismissed.

JUDGE

Rgd.