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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 411 OF 2019
(Leave to file appeal)
WITH
CRIMINAL APPLICATION NO. 412 OF 2019
(Leave to file appeal)
WITH
CRIMINAL APPLICATION NO. 413 OF 2019
(Leave to file appeal)

Bhushan Power and Steel Limited ... Applicant

vs.

M/s. I.P.M Industries Pvt Ltd and Ors ... Respondents

Adv. N.S. Baig for Applicant

Mr. Prasanna P. Malshe, APP for Respondent-State.

CORAM : GAURI GODSE, J.

DATED : 10th OCTOBER 2025

ORDER:

1. These applications are filed under Section 378(4) of the Criminal Procedure Code ('Cr.PC') by the original complainant to challenge the order passed by the learned Magistrate acquitting respondent nos. 1 to 3 (accused) for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. Learned counsel for the applicant submits that the

complainant had filed an application for adjournment as the complainant desired to place on record the orders passed by the National Company Law Tribunal (NCLT), as the complainant's company had gone into liquidation. She submits that the Power of Attorney of the complainant was present in the court on 21st September 2019, along with the Power of Attorney dated 26th August 2019, which was affirmed on 26th September 2019. She submits that only because the complainant wanted to bring on record the orders passed by the NCLT, the application for adjournment was filed. However, the learned judge, without considering the reasons for adjournment, denied the application for adjournment and dismissed the complaints on the ground that the complainant did not enter the witness box for cross-examination.

3. Learned counsel for the applicant relies upon the application for adjournment and the affidavit for production of documents, which are annexed on pages 40 and 42 of ALP No. 411 of 2019, pages 41 and 43 of ALP 412 of 2019 and on pages 41 and 43 in ALP No. 413 of 2019. She also relies on the grounds raised in the application to support her submissions that the witness of the complainant was present for cross-examination, and adjournment was prayed only to bring on record the documents regarding the final order passed by

the NCLT regarding the liquidation of the complainant's company. She submits that instead of giving an opportunity to the learned counsel, the learned judge has dismissed the complaint. She therefore submits that, considering the material placed on record along with this application, the complainant be granted an opportunity to prosecute the complaint on the merits. Hence, leave be granted to file an appeal.

4. I have perused the papers of these applications. The impugned order is dated 21st September 2019. The interim order appointing an Interim Resolution Professional by NCLT is dated 26th July 2017. The adjournment applications state that the adjournment was requested as the Power of Attorney holder of the complainant was unwell and thus was unable to attend the court for cross-examination. The trial court rejected the applications for adjournment on the ground that since 13th December 2018, the complainant was continuously absent and hence, the learned judge did not find it proper to grant an adjournment for the reasons stated in the application, which was not supported by any medical papers. It appears that another application was filed for adjournment, stating that the new company is going to take over the complainant's company and proceedings will be completed in the near future. It

was further stated that some of the dates got skipped by the Power of Attorney holder of the company, and now, since the company is going to appoint a new Power of Attorney, the procedure for appointing a new Power of Attorney will take some time. Hence, the application for adjournment was made. There was an affidavit filed stating that the complainant would produce necessary documents regarding the NCLT orders and the assignment of a new Power of Attorney.

5. The learned judge has rejected these applications by holding that since the first application for adjournment was rejected, the new application was filed by the advocate for the complainant on the ground that the complainant's company had gone into liquidation. It is recorded in the impugned order that the Power of Attorney of the Board of Directors of the Company, who was present before the court, was not holding the power to attend the matter. The Power of Attorney relied upon by the learned counsel for the applicant is dated 26th August 2019, and the same is affirmed only on 26th September 2019, i.e. after the impugned order was passed. Since the complainant's witness did not enter into the witness box for the cross-examination, the learned judge dismissed the complaint, and acquitted the respondents.

6. I have perused the explanation given in the present applications. The grounds raised in the applications are bereft of any explanation regarding any steps taken by the complainant from 13th December 2018, as recorded in the order rejecting adjournment. It appears that only after the first application was rejected, the second application was filed for leave to place on record the order of NCLT. The application for producing the papers regarding the NCLT order is bereft of any explanation of the particulars of which order was to be relied upon and for what purpose. The interim order of NCLT is of 2017. The record does not indicate any further orders which was necessary for completing the cross-examination of the witness whose affidavit was already filed. Thus, in the impugned order, by recording all these particulars, the learned judge has dismissed the complaint. For want of any justifiable reason to challenge the impugned order, I do not find any ground to interfere with the impugned order. Hence, there is no reason to grant leave as prayed in the applications.

7. The applications are therefore rejected.

(GAURI GODSE, J.)