



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO FILE APPEAL BY PRIVATE PARTY NO. 88 OF 2025

True Value Trade

Having its registered office at Shop No. B001,
C Type Building, Nariman Bharti City Center,
Veer Sawarkar Chawk, Samarth Nagar,
Aurangabad – 431001.

Partner

Chandrakumar Bansilal Malani,

Age : 59 years, Occupation Business,

R/o 3/13/92, Raja Bazar, Aurangabad.

... Applicant/
Ori. Complainant

Versus

1. Eshwar Services,
A firm Registered under Company Act,
Having Registered Officer at
B-3, Bhanudas Nagar,
In front of Saraswati Mandir,
Jawahar Colony Road, Aurangabad.

2. Jyoti Raut
Age : Major, Occupation Business,
R/o B-3, Swati Enterprises,
Bhanudas Nagar, Aurangabad.

3. Ishwar S. Raut
Age : Major, Occupation Business,
R/o B-3, Swati Enterprises,
Bhanudas Nagar, Aurangabad.

... Non-Applicant/
Ori. Accused.

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Mr. Chaitanya C. Deshpande, Advocate for the Applicant.

Mr. Ashok D. Raut, Advocate for Respondent Nos. 1 to 3.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 07.10.2026

Pronounced on : 09.10.2026

ORDER :

1. Heard learned Counsel for the applicant-original complainant and learned Advocate for respondent Nos.1 to 3.
2. Instant leave application is at the behest of original complainant, whose proceedings under Section 138 of the Negotiable Instruments Act (N.I. Act) ended up in dismissal of complaint by invoking Section 256 of the Code of Criminal Procedure.
3. Learned Counsel for the applicant pointed out that, proceeding bearing S.C.C. No.2604 of 2020 was instituted against present respondents alleging offence punishable under Section 138 of N.I. Act and on satisfaction, learned Judicial Magistrate, First Class, (Court No.11), Latur also issued process on 07.11.2023.
4. Learned Counsel for the applicant pointed out that the complaint was pending before the learned Trial Court and was ultimately disposed of on account of absence of the complainant and failure to take necessary steps. Learned counsel for the applicant would submit that the applicant is ready and willing to diligently prosecute the complaint and that an opportunity may be granted to prosecute the matter on its own merits.

5. Considering the above, in the interest of justice and in view of the statement made across the bar that applicant is ready to diligently prosecute the matter, applicant deserves an opportunity to prosecute his complaint. Hence, the following order :-

ORDER

- I. The Application is allowed.
- II. Leave is granted to file Appeal.
- III. Registry to register the Appeal.
- IV. The applicant is directed to pay costs of Rs.3,000/- (Rupees Three Thousand only) to the respondents.

In Appeal, the following order is passed :-

- IV. The impugned order dated 27.03.2025 passed by learned Judicial Magistrate First Class (Court No.11), Aurangabad in S.C.C. No.2604 of 2020 is hereby set aside.
- V. The matter is remanded back to the file of the learned Judicial Magistrate First Class (Court No.11), Aurangabad, who shall conduct hearing afresh by affording opportunity to both sides to adduce evidence and decide the matter on its own merits.

VI. Parties shall appear before the learned trial Court on 30.10.2026 and further dates and future course shall be decided by the learned trial Judge.

VII. The appeal is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]

scm