

**Criminal Case No:- 866/2019**

**Order Below Ex:- 01**

- 1) Looking at the record of the present case It is noteworthy that the case at hand falls under the Negotiable Instruments Act and is around 6 years old. The summons addressed to the accused was dispatched but returned without being served. The endorsement on the returned summons stated that the address provided by the complainant was incorrect/ locked, and the accused does not reside at that location. The matter has been pending for years, during which several adjournments have been granted to the complainant for the purpose of providing the accurate address of the accused. The matter has been pending for the address of the accused since last several adjournments, However, despite filing a complaint against the accused, the complainant has failed to furnish the required and precise address.
- 2) It is essential to highlight that in a private complaint, it is the responsibility of the complainant to furnish the appropriate address of the accused. Regrettably, the complainant has failed to fulfil this obligation and is now seeking an adjournment to produce the address of the accused. Additionally, despite being granted multiple adjournments previously for the same purpose, the complainant has not discharged their duty.
- 3) This Court can profitably refer to the judgement of Hon'ble Gujarat High Court delivered in case of ***Patel RajendrakumarAmbalal Vs. State of Gujarat reported as 2018 Supreme (Guj.)358***. In this judgement Hon'ble Gujarat High Court was pleased to observe thus with regard to pendency of cases filed under section- 138 of N.I.Act and timely presence of the parties to the case.

*"4.5. The pendency of the matters under Section 138 of the NI act and its elongated trials are the serious concerns of the Courts. Therefore, all concerned are expected to cooperate by remaining present without loss of time."*
- 4) *Despite ample opportunities made available to the complainant, the complainant did not remain present before the Court. I may only say that Law Courts never tolerate an indolent litigant since delay defeats equity - the Latin maxim vigilantibus et non dormientibus jura subvenient (the law assists those who are vigilant and not those who are indolent). As a matter of fact, lapse of time is a species for forfeiture of right. At this juncture it will be relevant for this Court to refer herein judgement of Hon'ble Bombay High Court delivered in case of **Ramzan Khan Vs. Khadi Tours reported as 2019(5) Mh.L.J.(Cri.) 20. Hon'ble Bombay High Court was pleased to observe this in this Judgement.-When the complaint and/or proceedings is filed by the litigant before the Court of law, it is an onerous duty to prosecute the same diligently. The applicant cannot be dormant for years together as observed in the present case.***

*Unless and until the non-applicants are served in the proceedings before the Court below, the said proceedings could not proceed further. Since it is a private complaint, it was the duty of the applicant/complainant to take all necessary steps to serve the non-applicants.*

**8. Unnecessary filing of complaints and/or after filing of complaints, no step is taken and, therefore, the Courts are unnecessarily burdened and learned Judge below is unable to devote time for the litigants who are diligently prosecuting their proceedings has to remain in queue. This type of attitude on the part of the litigants has to be curbed though it is the right of citizens to approach the Court of law for redressal of their grievance, if any. At the same time, it is the duty of such citizens to prosecute the remedy availed of diligently and should not allow proceedings to remain in a dormant state for years together.”**

- 5) Furthermore, the advocate representing the complainant was present before this court today but failed to provide any address of the accused. Seeking Adjournments on each of adjournments seems purposeless. This oversight is compounded by the complainant's carelessness. Such actions demonstrate a blatant disregard for the gravity of court proceedings and a failure to adhere to the directives of this court. Further It is crucial to underscore that providing the accurate address of the accused is a duty of the complainant, one that has regrettably not been fulfilled. In light of these grave shortcomings and the consequential delay in the administration of justice, this court finds it intolerable to entertain any further delays.
- 6) Consequently, the present application stands dismissed for default, attributing to the complainant's failure to fulfill their obligation to provide the address of the accused and their subsequent nonattendance at the proceedings.

### **Final Order**

- Hence, the current criminal case is hereby ordered to be dismissed for default on the part of the complainant.

Pronounced and signed today in open court today.

Place: Mansa

Date: 09/03/2026

**(Ms. Damini Dixit)**

JMFC, Mansa

**GJ01698**