

MHLA010000972024 	Received on : 08.01.2024 Registered on : 08.01.2024 Decided on : 09.06.2026 Duration : 02Y-05M-01D
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BEFORE THE Court OF SESSION JUDGE AT LATUR.

(Presided over by Sanjay J. Bharuka, PDJ and SJ)

Criminal Revision Application No. 3/2024

Madhavrao Balasaheb Patil,

Age 53 years, Occu: Agri.,

R/o – Masalga, Tq. Nilanga, Dist. Latur

... **Revision Petitioner**
(Ori. complainant)

Versus

Arun Vishwambharrao Sherekar,

Age 52 years, Occu: Service,

R/o – Milind College, Shahu Chowk, Latur.

Near COCSIT college, Mayurban Society,

House No. 25, Ambajogai road, Latur

Tq. Dist. Latur.

... **Respondent**
(Ori. accused)

**CRIMINAL REVISION UNDER SECTION 397 OF THE CRIMINAL
PROCEDURE CODE, 1973**

Shri P. P. Nawandar, Learned Advocate for the petitioner

Ex-parte against the respondent

ORDER BELOW EXH.01

The revision petitioner, who is original complainant has filed S.T.C.C. No. 1447/2013 against respondent/original accused for the offence punishable under Section 138 of Negotiable Instruments' Act, in which learned Trial Court passed order below Exh.-1 dated 08.12.2023 and complaint came to be dismissed for want of

prosecution under Section 256 of Cr.P.C. and respondent/accused came to be discharged. Being aggrieved by the said order, revision petitioner filed present revision.

02. Record indicates that notice of present revision was sent on the two addresses, mentioned in the petition, there is report Exh.19 that respondent has not been found on both the addresses, but police gave him information on his cellphone. Notice report Exh.-20 dated 10.12.2025 indicates that intimation was given to the relatives, but they were reluctant to accept the notice. It further appears that notice of the present case, came to be issued by way of RPAD, but same received un-served as respondent was not found. Hence, public notice came to be issued in the newspaper named Lokmat. In spite of that respondent did not appear. Hence, matter proceeded ex-parte against him on 14.05.2026. So, it appears that in the present revision, petitioner has tried his level best to serve the notice to respondent.

03. For the sake of brevity and clarity, in the present order revision petitioner is referred as 'complainant' and 'respondent' is referred as 'accused', as they stood before the Trial Court.

04. Learned advocate for complainant / revision petitioner submits that complainant has taken all the necessary steps time to time to secure presence of accused in learned Trial Court, bailable warrant came to be issued against accused and report was awaited, complainant could not present before the Court on 08.12.2023 and 2 dates prior to that due to death of his near relative, matter was not fixed for the presence of complainant, but it was fixed for appearance

of accused, accused is habitual offender and about 19 cases are pending against him, earlier also complainant secured his presence after securing order of NBW, learned Trial Court has not considered all the above things and wrongly passed the order of dismissal for want of prosecution under Section 256 of Cr.P.C., said order needs to be set aside by allowing the present revision petition.

05. On perusal of record, it appears that complainant has filed 17 documents in present revision petition below list Exh-3, including copies of rojnama of S.C.C. No. 1447/2013. On perusal of said rojnama, it appears that complainant has filed complaint under Section 138 of Negotiable Instruments Act on 06.08.2013, learned Trial Court passed order of issue process against accused on 23.07.2014, summons was duly served to the accused in learned Trial Court on 29.10.2014, in spite of that accused failed to appear, hence, NBW came to be issued, accused appeared before 18.03.2020 then again accused did not appear before the Court, again bailable warrant came to be issued against him, no report returned back before the learned Trial Court and there is reference in the roznama to that effect, dated 06.02.2023 and then learned Trial Court dismissed the matter on 08.12.2023 by passing order below Exh.-1.

06. Roznama indicates that complainant has taken necessary steps to secure presence of accused. When report of bailable warrant was awaited since long, then it was duty of the learned Trial Court to call report of concerned police station to that effect. But learned Trial Court without giving any opportunity to the complainant, dismissed the matter for want of prosecution.

07. Learned Adv. Pawan Nawandar has filed judgment of Gopal Prasad Sharma Vs. State of U.P. and another, Application U/s. 482 No. 15862 of 2024 dated 11.02.2026 in the Hon'ble Allahabad High Court, in which similar points has been considered in detail.

08. Considering facts and circumstances of the present case in the light of case of Gopal Sharma (cited supra), I came to the conclusion that learned Trial Court has committed an error, while dismissing the complaint for want of prosecution under Section 256 of Cr.P.C. Hence, said order needs to be set aside in the present revision. Therefore, I proceed to pass following order :

ORDER

- i) Revision petition is allowed.
- ii) Impugned order passed below Exh. 1 dated 08.12.2023 in S.T.C.C.No. 1447/2013 by the learned Trial Court is hereby set aside.
- iii) Learned Trial Court is directed to restore the matter to its original stage. Complainant is directed to take fresh new steps to secure the presence of accused.
- iv) Learned Trial Court is further directed that after securing the presence of accused, expedite the matter.
- v) Inform the learned Trial Court accordingly.

Date : 09.06.2026

(Sanjay J. Bharuka)
Sessions Judge,
Latur.

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER".	
N.V.Patil Stenographer (Grade-2)	
Name of the Judge (With Court Room No.)	Shri. S.J. Bharuka, Sessions Judge, Latur. (22)
Date for pronouncement of Judgment/Order	09.06.2026
Judgment/Order signed by P.O. on	09.06.2026