

ORDER BELOW EXH. NO.13 IN CRI.M.A.NO.209/2025

**Santosh Traders Taradgaon Through Santosh Sadashiv Gaikwad
V/s.**

Chatrapati Agro Tech Pvt Ltd. Through Santosh Vitthal Bathe & Ors.

This is an application filed by non-applicants/accused no.1 and 2 for setting aside non-bailable warrant dated 19.11.2025. According to them they have filed Criminal Appeal against the conviction judgment of S.C.C.No.945/2020. The Hon'ble Appellate Court directed to the accused to deposit amount of Rs.17,16,000/- and granted stay to the execution of judgment of S.C.C. No.945/2020. The non-applicants filed an application u/s 148 of N.I.Act before Hon'ble Appellate Court for modification of the stay order. Said application is still pending. Even though the applicant herein file application at Exh.No.5 for taking accused/non-applicants in the custody for execution of judgment of S.C.C.No.945/2020. The applicant by playing fraud on the Court obtain the order of issuance of N.B.W. against non-applicants dated 19.11.2025. Therefore, the non-applicants prayed to allow the application and set aside the N.B.W. order dated 19.11.2025.

2. The applicant has filed his say at Exh.No.17. According to applicant the non-applicants have filed false application. Today, both non-applicants are absent, therefore application is not tenable in absenty of accused. The Court has passed proper order. The notice of present application was served on accused within premises of the Court. The Hon'ble Appellate Court has granted the stay to the execution of S.C.C. No.945/2020 on the condition of depositing Rs.17,16,000/- within one month. However, accused/non-applicants did not deposited that amount in the Hon'ble Sessions Court. Therefore, there is no stay to the execution of judgment of S.C.C.

No.945/2020. Hence, he prayed to reject the application.

3. Today the accused/non-applicants are absent, their Ld. Advocate is present. The Ld. Advocate of non-applicants submitted that, the judgment of S.C.C. No.945/2020 and its execution was stayed by the Appellate Court and stay is still continued. The non-applicants have filed application u/s 148 of N.I.Act for modification of stay order and that application is still pending. There is nothing on record to show that, the stay order of Hon'ble Appellate Court is vacated. He further submitted that, the notice of present application could not be served on non-applicants. In such situation the order of execution of judgment of S.C.C. No.945/2020 by issuance of N.B.W. is not correct. The advocate of applicant misled Court and obtained the order dated 19.11.2025. Therefore, the Ld. Advocate for non-applicants prayed to set aside N.B.W. order dated 19.11.2025. The Ld. Advocate relied on judgment of *Kusha Duruka Vs. State of Odisha* (CRL.) No.12301 of 2023, 2024 Supreme(Online)(SC) 6402.

4. Perused application and say. On perusal of record it revealed that, the judgment of S.C.C. No.945/2020 was passed on 04.04.2025. In that judgment both accused were convicted for an offence punishable u/s 138 of N.I.Act and accused sentenced to suffer simple imprisonment of 1 year and to pay fine of Rs.85,00,000/-. The accused also sentenced to suffer 1 month simple imprisonment in default of payment of fine. My Ld. Predecessor has suspended the sentence of conviction of both accused till the filing of appeal by them. The appeal period is over.

5. The record shows that, the both accused were filed appeal bearing No. Criminal Appeal No.04/2025 before Hon'ble Additional Sessions Court, Phaltan. The Hon'ble Additional Sessions

Court, Phaltan on 11.06.2025 suspended the execution of judgment and sentence of S.C.C.No.945/2020 on the condition that, both accused jointly or severally to deposit Rs.17,16,000/- in the Court within the period of 1 month. The xerox copy of the order of Hon'ble Additional Sessions Court, Phaltan dated 11.06.2025 is filed on record. It shows that, the period for depositing the amount in the Court was ended on 11.07.2025. However, accused did not deposited the fine amount in the Hon'ble Additional Sessions Court, Phaltan within one month. The accused/non-applicants did not file on record to show that, the Hon'ble Appellate Court has granted any extension to the non-applicants for depositing the fine amount. Therefore, record prima-facie shows that, accused did not comply the order dated 11.06.2025 of Hon'ble Additional Sessions Court, Phaltan till date. The Ld. Advocate for non-applicants submitted that, they have filed an application u/s 148 of N.I.Act for modification of stay order dated 11.06.2025. However, it is admitted position that, stay order dated 11.06.2025 is not modified by Hon'ble Additional Sessions Court, Phaltan. Therefore, the application u/s 148 of N.I.Act could not be considered at this stage. As non-applicants did not deposited Rs.17,16,000/- as per direction of Hon'ble Additional Sessions Court, Phaltan. Therefore in such situation, the judgment and sentence passed in S.C.C.No.945/2020 is could not be taken as suspended by Hon'ble Additional Sessions Court, Phaltan and it is still remained in force. The facts and circumstances of citation are different than the facts and circumstances of the present case. Therefore, it is not helpful to the non-applicants.

6. In present application the notice was served on non-applicants. The non-applicants by filing pursis at Exh.No.8 also acknowledge that, he has knowledge of pendency of present

application. The order below Exh.No.5 date 04.11.2025 shows that, before issuance of N.B.W. order the non-applicants have given an opportunity to show that, whether the Hon'ble Additional Sessions Court, Phaltan has granted any stay to the execution of judgment of S.C.C. No.945/2020 or not. However, the non-applicants till date 19.11.2025 did not given any say/explanation. It shows that, non-applicants given sufficient opportunity to file his say but he failed. In such situation the order passed below Exh.No.5 dated 19.11.2025 is just and proper. Today also the non-applicants did not file anything to show that, they have made compliance of order dated 11.06.2025 of the Hon'ble Additional Sessions Court, Phaltan. Therefore, I found no substance in the application and submission made by non-applicants side. In result application is liable to be rejected. Hence, the following order.

ORDER

The application is rejected.

Phaltan.
Date-08.12.2025

(A.S.Satote)
Judicial Magistrate First Class,
Court No. 3, Phaltan.