

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO. 100 OF 2015**

|                                    |                |
|------------------------------------|----------------|
| Paradise Construction              | ...Petitioner  |
| Versus                             |                |
| Himanshu Bhagwandas Saungar & Anr. | ...Respondents |

Mr. Pradip Krishnadev Patole for the Petitioner

Mr. Deepak Thakre, A.P.P for the Respondent No.2-State

**CORAM : REVATI MOHITE DERE, J.**

**WEDNESDAY, 21ST JANUARY, 2015**

**P.C. :**

1. Heard learned counsel for the petitioner.
  
2. By this petition, the petitioner has impugned the order dated 6<sup>th</sup> August, 2013 passed by the learned Judicial Magistrate, First Class, Pune below Exhibit 1 in SCC No. 15044/2013 by which process came to be issued against the petitioner. The said order issuing process was challenged by the petitioner in revision and the learned Additional Sessions Judge, Pune vide order dated 25<sup>th</sup> November, 2014 rejected the said revision application.

3. The learned Counsel for the petitioner contended that the complaint alleging an offence under Section 138 of the Negotiable Instruments Act, 1881 could not have been filed by the respondent/complainant, as there was no occasion for the petitioner to advance any loan to the respondent/complainant. He submitted that the document which is at page 58 of the petition i.e. the affidavit of the petitioner is fabricated and so is the document at page 59 Exhibit 'D'. He disputes the signature on the said document as being that of the petitioner.

4. Perused the complaint, the order issuing process and the order passed by the learned Additional Sessions Judge below the Criminal Revision Application.

5. The petitioner has raised disputed questions and has contended that some of the documents relied upon by the respondent/complainant have been forged and fabricated by the respondent company. He submits that even the contents written on the cheque have not been written by the petitioner. All these questions raised by the petitioner are a matter of

evidence and cannot be gone into in writ jurisdiction. No interference is thus warranted in the order issuing process and in the order dismissing the Revision Application of the petitioner.

6. Petition is accordingly dismissed. Needless to state, that the trial Court shall proceed with the case, on its own merits, uninfluenced by the dismissal of this petition.

**REVATI MOHITE DERE, J.**