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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1639 OF 2015

Shri. Akshay Panwar,
Age: 40 years, Occu: Business,
R/o. C/o. Mr. D. S. Panwar,
RB 7, Indra Nagar,
Dehradun, Uttarakhand State,
Pin 248 001

..PETITIONER

VERSUS

1. Mrs. Nisha w/o Colonel Varun Sehgal,
Age: 46 years, Occu: Household,
R/o. A.C.C. & S. Ahmednagar

2. The State of Maharashtra

..RESPONDENTS

Mr R. S. Kasar, Advocate for petitioner;
Mr N. V. Gaware, Advocate holding for Mr A. H. Mahajan, Advocate for
respondent No. 1;
Mr R. V. Dasalkar, Addl. Public Prosecutor for respondent No. 2

CORAM : N.W. SAMBRE, J.

DATE : 12th April, 2016

ORAL ORDER :

By an order dated 31st August, 2015, below Exh. 1 in S.T.C. No. 2298 of 2015, the learned Judicial Magistrate First Class, Court No. 8, Ahmednagar, has ordered issuance of process against the petitioner-accused for the offence punishable under Section 138 of Negotiable Instruments Act, 1881.

2. The petitioner has sought discharge on the ground that the

(2)

respondent-complainant has come out with a case under Section 138 of Negotiable Instruments Act, that the statutory notice was not served on him and registered post envelope returned with an endorsement "incomplete address."

3. It is the plea taken by the present respondent – complainant in the complaint that the said address is sufficient and it is the petitioner -accused, who has manipulated the said postal report.

4. In the background of above referred pleadings of the respondent-complainant, in my opinion, the burden lies on the respondent – complainant, to prove that postal report and service of notice was manipulated by the petitioner-accused.

5. In view of above observations, no interference is called for. Writ Petition fails and stands dismissed.

(N.W. SAMBRE, J.)

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