

2. Learned Counsel appearing for the petitioner submits that cheque was interpolated by the Complainant himself and for which he need not stand for the trial. He submitted that notice issued to the petitioner by the Complainant does not attract ingredients of offence punishable under Section 138 of the Negotiable Instrument Act, 1881. Learned Counsel

further submitted that in view of the material placed on record the petitioner need not resort to alternate remedies.

3. We have perused the complaint annexed at page 61 in C.C. No. 11138/2015. In paragraph 6 the Complainant contended as under:

“As per instructions of accused, complainant presented above cheques in its account with SBI, Branch-Konkan Bhavan and surprisingly all cheques were returned on 14.9.2015 with endorsement “Alteration require drawer's authentication”. After finding such endorsements, complainant personally approached accused to rectify all the defects on cheques, to which accused said to have done deliberately and threatened complainant of dire-consequences if complainant again approaches with such cause.”

4. We have gone through the complaint, affidavit and order issuing process under section 138 of the Negotiable Instruments Act, 1881.

5. We have perused the Photostat copy of the cheques annexed at pages 113 and 114 of the paper-book. Whether the alleged interpolation was done by the complainant or respondent cannot be decided in the proceedings of writ petition. In the facts we are not inclined to exercise our writ jurisdiction or invoke inherent powers to quash and set aside the order passed by the Magistrate and the further proceedings. The petitioner may raise appropriate defences during the proceedings of the trial. Petition is dismissed.

6. All issues on merits are kept open. The dismissal of the petition shall not affect the merits of the case.

(A.M. BADAR, J.)

L.S. Panjwani, P.S.

(NARESH H. PATIL, J.)