

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

CRIMINAL WRIT PETITION NO.57 OF 2019

(Sandeep s/o Nilkanthrao Deshmukh ..vs.. Qontinent 7 Marketing Solution Pvt. Ltd. Dhamangaon
Railway)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.M. Mardikar, Counsel for the petitioner,
Shri Ashish Rath, Counsel for the respondents.

CORAM : ROHIT B. DEO, J.

DATED : 27-06-2019

The order of issuance of process for offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (Act) is assailed.

2. The petitioner-accused challenged the order of issuance of process in revision and the contention is that the withdrawal slip which was allegedly issued by the accused in favour of the complainant is not a cheque as contemplated under Section 6 of the Act.

3. One of the issues which may arise for consideration is whether the Credit Society is a Banking Company as envisaged under the Banking Regular Action, 1949.

4. It would be appropriate, if the contention raised is decided by the learned Magistrate at the stage of trial and on the basis of the evidence adduced.

5. At this stage, Shri R.M. Mardikar, learned Counsel, on instructions, seeks leave to withdraw the petition with liberty to raise the contention at appropriate stage.

6. However, it is made clear that every contention raised in this petition and in rebuttal, is kept expressly open. The learned Magistrate shall consider and decide the contention that the instrument placed on record is not a cheque on the basis of the evidence, without being influenced in any manner by the order of issuance of process or order in Criminal Revision 6/2018.

7. Subject to the aforesaid observations and directions, the petition is disposed of as withdrawn.

JUDGE

adgokar