

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

CRIMINAL APPLICATION (APL) NO.342 OF 2019

(Sanjay s/o Shriramji Pendharkar ..vs.. Vilas s/o Shankar Donade)

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

Court's or Judge's orders

Shri N.G. Jetha, Counsel for the applicant.

CORAM : ROHIT B. DEO, J.

DATED : 12-04-2019

The order of taking cognizance of complaint instituted under the provisions of the Negotiable Instruments Act, 1881 is assailed on two grounds.

The first ground is that the Court at Nagbhid does not have the territorial jurisdiction to entertain the complaint. The averment in the complaint is that the cheque is deposited by the complainant in his bank account at Nagbhid.

In this view of the matter, there is no substance in the submission that the Nagbhid Court has no territorial jurisdiction.

The second ground is that the statutory notice is not served. The case of the complainant is that the notice could not be served as the house of the complainant was locked. Whether a presumption of service can be drawn on facts established is for the trial Court to decide after the evidence is recorded. The question as regards the service of notice is kept open.

2. At this stage, Shri N.G. Jetha, learned Counsel for the applicant seeks leave to withdraw the application.
3. The leave as prayed is granted.
4. However, it is made clear that the only challenge left open is to the service of the statutory notice.
5. The application is disposed of as withdrawn.

JUDGE

adgokar