

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

CRIMINAL WRIT PETITION NO.1061 OF 2019

Mohd. Imran Jikar Surayya
Aged about 35 years,
Occ: Business, R/o In front of
Budha Vihar, Near Water Tank,
Prabhagh No.7, Mahagaon,
Tah. Mahagaon, Dist. Yavatmal. **PETITIONER**

...V E R S U S...

Sheikh Akram Sheikh Khawja,
Aged about 37 years,
Occ: Business, R/o Prabhagh No.7,
Mahagaon, Tah. Mahagaon,
Dist. Yavatmal. **RESPONDENT**

Mr. S.D. Dharaskar, Advocate for Petitioner.
None for Respondent.

CORAM: **ROHIT B. DEO, J.**
DATE: **18th DECEMBER, 2020.**

ORAL JUDGMENT:

This petition is finally heard at the admission stage since the issue is covered by the decision of the Apex Court in *G.J. Raja v. Tejraj Surana* reported in *2019(10) SCALE 168*.

2. Heard Mr. S.D. Dharaskar for the petitioner.

3. None appears on behalf of the respondent who is duly served.

4. The petitioner is arraigned as accused in SCC 502/2018 instituted by the respondent under the provisions of the Negotiable Instruments Act, 1881 ('N.I. Act').

5. The respondent – complainant preferred application (Exh.25) inviting the learned Magistrate to exercise power under section 143 A of the Act. The learned Magistrate allowed the application vide order dated 27.09.2019 and directed the petitioner – accused to deposit Rs.80,000/- in the Court.

6. The learned Magistrate was alive to the articulation of law in G.J. Raja v. Tejraj Surana. The Apex Court has clearly enunciated that section 143 A is prospective and would apply only if the offence is committed after 01.09.2018. Irrefutably, the offence in the present case is complete, even according to the complainant, much prior to that date. Inexplicably, the learned Magistrate noted that since the plea is recorded on 14.09.2018, the amended provision shall apply.

7. The learned Magistrate has clearly and grossly misread or misunderstood the decision of the Apex Court.

8. The order impugned is patently illegal and is quashed.

9. Petition is allowed.

JUDGE

NSN