

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

CRIMINAL WRIT PETITION NO.389 OF 2020

(Manohar Shamrao Sontakke Vs. Mahatma Phule Gramin Begar Sheti Sahakari
Patsanstha Ltd. and another)

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

Court's or Judge's orders.

Mr. Kamal Anandani, Advocate for Petitioner.
Mr. A.M. Tirukh, Advocate for Respondent 1.
Mr. N.R. Rode, APP for Respondent 2/State.

CORAM: ROHIT B. DEO, J.

DATE: 27th JANUARY, 2021.

The petitioner is arraigned as accused in SCC 159/2013 which is instituted by respondent 1 under Section 138 of the Negotiable Instruments Act.

2. Respondent 1, who shall be referred to as the complainant, filed affidavit in lieu of oral examination sworn by Mr. Yuvraj Dongre, the Assistant Manager and authorized person. According to the learned counsel for the petitioner, who shall be referred to as the accused, during the course of the cross-examination certain documents are brought on record to suggest that the authorization on the basis of which Mr. Yuvraj Dongre is deposing, is discrepant in the sense that the authorization is not sanctioned by the resolution of the managing committee. It is further submitted that the resolution placed on record is at variance with the resolution on the basis of which the power of

attorney is executed by the society in favour of the witness.

3. The accused preferred an application for dismissal of the proceedings which the learned Magistrate reject. The accused then preferred Criminal Revision 71/2018 which is rejected by the learned Sessions Judge, Akola vide judgment dated 14.11.2019.

4. The learned Sessions Judge however, left the contention open for the learned Magistrate to adjudicate finally that is after the recording of the evidence.

5. I do not see any reason to interfere in exercise of writ jurisdiction.

6. Needless to record, as observed by the learned Sessions Judge, the contention raised in this petition is left open for the learned Magistrate to decide at the stage of final hearing.

7. Subject to the aforesaid observation, the petition is dismissed.

JUDGE