

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 1694 OF 2022

Anjum Sameer Patel

.. Petitioner

Versus

Rekha Laxminarayan Nawandar

.. Respondent

Mr. H. I. Pathan, Advocate for the Petitioner.

CORAM : KISHORE C. SANT, J.

DATED : 08th DECEMBER, 2022.

P C. :-

1. Heard learned advocate for the petitioner.
2. By way of filing this petition the petitioner is praying for quashing of the proceedings of S.C.C. No. 717/2018 pending before the Court of learned J.M.F.C., Latur for the offence punishable under Section 138 of the Negotiable Instruments Act. It is the submission of the learned advocate that the cheque was dishonored for the reason that, the account is closed. The bank memo also shows the same thing and there is no question of issuing cheque once the account was closed. He submits that though the cheque is dishonored for the reason of account closed in the demand notice, however, respondent has stated that the cheque was dishonored for the reason of insufficient funds. He

further submits that, the respondent has already left the service and has joined some other school and therefore, there is no liability to pay to her. He submits that the respondent has tendered an apology on a stamp paper of Rs. 100/- in which she has stated that she was working as Headmistress and she tendered an apology for leaving the job without intimating the school authorities in which it is further seen that she has stated that she has taken away cheque from the school office and used for encashment. It is the submission that, it was the said cheque which is now presented in the bank for encashment. He thus submits that under such circumstances the proceedings itself would amount to an abuse of process of law and he prays for quashing of the proceedings.

3. Considering the submissions of the accused, it does appear that the submissions are in nature of defence which the petitioner has to take in the learned Trial Court and it is for the respondent to prove her case before the learned Trial Court. This is not the stage to appreciate the grounds raised in the petition and the submissions advanced in this Court.

4. Learned advocate after arguing for some time prays for liberty to withdraw the petition.

5. Leave is granted.
6. Needless to say that, all points are open to be agitated in the learned Trial Court.
7. Writ petition is disposed of as withdrawn.

(KISHORE C. SANT, J.)

PS.B.