

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.2128 OF 2022

Asad Khan Yasin Khan

... Petitioner

V/s.

Mohammad Yakub Barkatullah & Anr.

... Respondents

Mr. J.D. Khairnar for the petitioner.

Ms. Tooba R. Momin i/by Mr. R.M. Momin for the
respondent No.1.

Mr. A.R. Patil, APP for the State.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 18, 2022

RC.:

1. The order impugned is passed in exercise of powers under section 143-A of Negotiable Instruments Act, 1881. By the impugned order the learned Magistrate has directed to the accused to deposit 20% of the amount of cheque.

2. The contention raised on behalf of the petitioner is that the banker had handed over the cheque in question to the complainant. The cheque was not issued by the accused. In my opinion, the said issue is the question which has to be adjudicated by the time of trial. The inquiry under section 143 being summary in nature and considering the scope and purpose of scheme of sections 141 to 143 of the Negotiable Instruments Act, 1881, in my opinion, the defence of the applicant that the cheque in question

was issued by the petitioner to the complainant and not to the accused cannot be considered at this stage.

3. In that view of the matter, the exercise of powers by the learned Magistrate under Section 143(A) directing the accused to deposit 20% of amount of the cheque cannot be faulted. There is no perversity or miscarriage of justice.

4. At this stage, the learned advocate for the petitioner seeks four (4) weeks time to deposit the amount. The period as prayed for is granted.

5. Writ petition is disposed of in above terms. No Costs.

(AMIT BORKAR, J.)