

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

CRIMINAL APPLICATION (APL) NO. 720/2022

(Shri Yogeshwar S/o Annaji Thakre Vs. Apex Cotton Sahakari Pat Sanstha Ltd.
Nagpur)

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

Court's or Judge's orders.

Mr. Y. J. Sheikh, Advocate for applicant.

CORAM: VINAY JOSHI, J.

DATE: 8th JUNE, 2022.

Heard.

2. By invoking inherent jurisdiction of this Court, this application is filed seeking to quash the proceedings of S.C.C. No. 1072/2020 for the offence punishable under Section 138 of the Negotiable Instruments Act ('N. I. Act'). It is argued that there was no legally enforceable debt as well as the applicant has deposited certain amount with the non-applicant – Pat Sanstha, however the amount was not credited in loan account. Moreover, it is contended that the cheque in question was issued towards security and therefore, the offence punishable under Section 138 of the N. I. Act would not attract.

3. Perusal of complaint discloses that the non-applicant (complainant) is financial institution of which the applicant is a member, who has applied and received loan of Rs. 5 lakh. The said fact is not in dispute. The complaint

discloses that towards satisfaction of loan, the applicant has issued a cheque dated 15.07.2020 to the tune of Rs. 10,48,502/- which was dishonored on presentation.

4. The complaint prima-facie indicates disbursement of loan amount, issuance of cheque and its dishonour. It is matter of defence as to whether there exist legally enforceable debt or not. Moreover, the learned Magistrate has taken cognizance of the complaint and issued process against the accused. It appears that the order of issuance of process was not challenged. No grounds are made out to quash the complaint as the material which is forthcoming, prima-facie satisfies the tenability of complaint. In view of that there is no purpose in entertaining applicant, hence stands dismissed.

JUDGE

Gohane

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signed by
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