

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

**CRIMINAL APPLICATION (APL) NO. 1110/2021**

M/s. Sunlight Power Dry Cleaners, Prop.  
 Premraj Gangaram Kanojiya, aged adult,  
 Occ. Business, R/o. New Radhakisan  
 Plots, Akola, Tq. & Dist. Akola.

..... **APPLICANT/**  
**ORI.ACCUSED**

**VERSUS**

The Agrasen Nagri Sahakari  
 Bank Limited, through its Officer  
 Shri Sudhir Balkisan Kabra, Aged  
 adult, Occ. Service, R/o. Gandhi  
 Road, Gandhi Chowk, Akola, Tq.  
 & Dist. Akola.

.....**NON-APPLICANT/**  
**ORI. COMPLAINANT**

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Mr. B. N. Mohta, Advocate with Mr. S.M. Laddha, Advocate for  
 applicant.  
 Mr. S. Joshi, Advocate for non-applicant.

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**CORAM** : **VINAY JOSHI, J.**  
**DATE OF JUDGMENT** : **06.10.2022.**

**ORAL JUDGMENT :**

Heard.

2. **Admit.**

3. The applicant is an accused in S.C.C. No. 378/2015 filed by non-applicant in terms of Section 138 of the Negotiable Instruments Act ('N.I. Act'). The complainant is a registered Co-operative Society from which the applicant (accused) has obtained business loan. It is a case of complainant that towards repayment of loan amount, the applicant issued a cheque of Rs. 6 lakhs which was dishonoured. After complying statutory requirement, the complaint for the offence punishable under Section 138 of the N. I. Act has been filed.

4. At the stage of defence evidence, the accused has filed application (Exh. 73) seeking dismissal of complaint. In short, it is contend that the non-applicant (complainant) has sought recovery certificate in terms of Section 101 of the Maharashtra Cooperative Societies Act and in the said proceeding, the due amount has been deposited in the revision. On said ground, he seeks for dismissal of complaint. It is informed that by the time defence evidence is complete and matter is posted for final argument by the Trial Court. It is a matter of defence to put that the amount is not legally recoverable. Certainly, that would be an issue for final adjudication before the Trial Court. The defence raised by accused cannot be dealt piecemeal, therefore, I find no illegality in rejecting the application for dismissal when the matter is placed for final arguments.

6. In view of above, application carries no merits, hence dismissed .

(VINAY JOSHI, J.)

*Gohane*

JITENDRA  
BHARAT  
GOHANE

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