

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

961 CRIMINAL WRIT PETITION NO.209 OF 2023

KAILAS PADMAKAR WANKAR
VERSUS
SHRIRAM UTTAM WANKAR

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Advocate for Petitioner : Mr. Avinash S. Londhe
Advocate for Respondent : Mr. R.B. Dhaware

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CORAM : R. M. JOSHI, J.
DATE : JULY 26, 2023

PER COURT :

. This petition takes exception to the order dated 07.01.2023 passed by learned Judicial Magistrate First Class, Sonpeth below Exh.161 in Summary Criminal Case No.31 of 2017 whereby the summon was issued to the Officer of Sonpeth Nagari Sahakari Bank Ltd., Sonpeth to bring the account statement of Kailas Wankar and Padmakar Wankar. Learned counsel for petitioner states that application Exh.161 filed by respondent – original complainant indicates that the said bank statements are already filed on record. Thus, according to him, in such circumstances it is not open for complainant to seek order of issuance of summons to bank authorities to produce the same along with 65B Certificate under the Indian

Evidence Act. He further submits that the account statements are not procured legally.

2. There is no dispute about the fact that proceeding in question pertains to offence under Section 138 of the Negotiable Instruments Act. It is always open for complainant to lead evidence in order to substantiate the offence against accused persons. Perusal of application though indicates that copies of bank statements were filed on record, however the said documents are disputed by accused. In such circumstances, complainant was left with no other alternative but to seek order of issuance of summons to bank Authorities to produce the bank statements of accused on record. Needless to state that such statements must be supported with certificate issued under Section 65B of the Indian Evidence Act.

3. In these circumstances, no infirmity is found in the impugned order passed by learned Judicial Magistrate First Class. Hence, there is no merit in the petition and it stands dismissed.

[R. M. JOSHI]
JUDGE

GGP