

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

CRIMINAL WRIT PETITION NO.699 OF 2023

Sukhvindar Kaur Sohal

.....Petitioner

Versus

Sushmita Ashok Bhasin
and another

.... Respondents

Ms. Asha Kanzariya, Advocate i/b. Vijay Upadhyay, for the
Petitioner.

Mr. Kuldeep U. Nikam, Advocate for the Respondent No.1.

Mr. Arfan Sait, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 04th NOVEMBER, 2023

P.C. :

1. The Petitioner is the original accused in S.C.C. No.3396/2018 before the Judicial Magistrate, First Class, Cantonment Court, Pune. The Petitioner is facing proceedings under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'N.I. Act') instituted by the Respondent No.1 herein. The case of the complainant-Respondent No.1 herein is that he had advanced a loan of Rs.22 Lakhs. It was an interest free soft-loan. In repayment of the liability, the Petitioner issued a cheque dated

31.10.2018 for the amount of Rs.25 Lakhs drawn on Bank of Maharashtra, Salisbury Park Branch, Pune It was dishonored and, therefore, the complaint was filed.

2. Learned Magistrate issued process on 22.3.2019. The complainant filed an application under Section 143-A of the N.I. Act before recording of the plea. It was rejected. Thereafter the plea was recorded and then again the Respondent No.1 filed a fresh application under Section 143-A for directions to the Petitioner to deposit 20% of the cheque amount. That application filed at Exhibit-38 was allowed by learned Magistrate vide his order date 16.11.2022. Said order is under challenge in the present Writ Petition.

3. Learned counsel for the Petitioner submitted that there is no legally enforceable liability. The Respondent No.1 had used the forged documents to create liability. She submitted that since the Petitioner has good case on merits, direction to deposit 20% of the amount was not necessary.

4. Learned counsel for the Respondent No.1

opposed these submissions. He submitted that learned Magistrate has passed a reasoned order and, therefore, it was not necessary to interfere in the said order.

5. I have considered these submissions. Learned Magistrate has indeed passed a well reasoned order. He has referred to the observations of the Hon'ble Supreme Court in the case of **G.J. Raja Vs. Tejraj Surana** as reported in **(2019) 19 SCC 469**. The learned Magistrate has also considered the averments in the complaint. After considering all the relevant aspects, he used his discretion and directed the Petitioner to deposit 20% of the cheque amount by way of interim compensation.

6. I do not see any reason whatsoever to interfere with the impugned order. It is a well reasoned order and the learned Magistrate has exercised his discretion. He has also applied the provisions of Section 143-A of N.I. Act properly. In this view of the matter, I do not see any merit in the present Petition. The Petition is dismissed.

(SARANG V. KOTWAL, J.)

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