

Ghuge

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

WRIT PETITION NO.4588 OF 2021

Milind Dande ... Petitioner
V/s.
The State of Maharashtra and Ors ... Respondents

Ms. Pranita P. Hingmire for the petitioner.

Mr. Himanshu S. Gavit, Mr. Sanjeev Deore, Mr.
Himanshu Thakur, Ms. Suchita Pawar for the
respondents.

Mr. Arfan Sait, APP for the State.

Mr. S.B. Unde, WPSI, Upnagar Police Station, Nashik.

CORAM : AMIT BORKAR, J.

DATED : MARCH 30, 2023

P.C.:

1. Challenge in these petitions is to the order dated 16th September, 2021 striking out defence of the accused on the ground that non payment of interim compensation directed under Section 143-A of the Negotiable Instruments Act, 1881.

2. Undisputedly, 20% of the cheque amount towards interim compensation has not been paid. Therefore only recourse available to the complainant is to initiate proceedings under section 421 of the Code of Criminal Procedure Code, 1973. There is no enabling power vested with magistrate to strike out defence in the absence of specific provision conferring such power. Therefore magistrate cannot not strike out defence for non compliance of order under Section 143-A of the Negotiable Instruments Act, 1881.

3. In that view of the matter, the impugned order cannot sustained.
4. The Writ Petition is allowed in terms of prayer clause (b), to the extent of impugned order dated 16th September, 2021.

(AMIT BORKAR, J.)