



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

Criminal Writ Petition No. 304 of 2023

Khan Habib Khan ..vs.. M/s. Shriram City Union Finance Ltd., through its Branch Manager,
Camp, Amravati]

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

Court's or Judge's orders

Ms. M. A. Sharma, Advocate for the petitioner
Mr. Parth Malviya, Advocate for the respondent

CORAM : ANIL L. PANSARE J.

DATED : 29-9-2023

Learned counsel for the petitioner submits that the petitioner is ready to pay the cheque amount. He is at liberty to do so.

2. As regards merit, the challenge is to the order dated 6-4-2023 passed by the Additional Sessions Judge, Amravati in Criminal Revision No. 2/2023 whereby the revision filed by the petitioner, seeking to quash and set aside the order dated 15-12-2022 passed by the learned Judicial Magistrate First Class, Court No. 4, Amravati in S.C.C. No. 4022/2016.

3. Having heard both sides, it appears that the petitioner – original accused has preferred application, Exhibit 48 to refer the document with postal acknowledgment for opinion of the handwriting expert. Learned Judicial Magistrate First Class has rejected the same by relying upon the judgment in the case of *C.C. Alvi vs. Palapetti Mohammad* [2007(3) SCC(Cri) 236] wherein the

Hon'ble Supreme Court has held that the accused may make payment of cheque within 15 days from the receipt of summons of the Court. Accordingly, the Court held that the petitioner could have, within 15 days from the receipt of summons, paid the amount.

4. The learned Magistrate has also noted that the accused has not denied his signature on the cheque. Learned Judicial Magistrate First Class also noted that the respondent-complainant has sent notice on the correct address of the petitioner-accused. The petitioner – accused has not disputed the said fact that the notice has been issued at the correct address. He has denied his signature only on the acknowledgment.

5. The Sessions Court upheld the findings by noting that the application has been filed belatedly i.e. after about six years of initiation of proceedings. The Sessions Court has then, relying upon Section 27 of the General Clauses Act, expressed its view that since the notice has been sent at the correct address, it will be presumed that it has been served upon the addressee in terms of Section 27 of the General Clauses Act. That being so, I do not find any perversity in the impugned order passed by the learned Sessions Court.

6. It is informed that the matter has been now listed for judgment. It appears that the application, Exhibit 48 has been filed with an

intention to prolong the matter. The Courts below have rightly dealt with it. The petition is dismissed.

(Anil L. Pansare, J.)

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