



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 825 OF 2023

Jugalkishore S/o Navalkishore Kothari

..VS..

Nishant Sahakari Gramin Pat Purawatha Sanstha Ltd., Akola through it's
Administrative Manager

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

Court's or Judge's orders

Mrs. K.E. Meshram, Advocate h/f. Mr. M.G. Sarda, Advocate for
petitioner.

CORAM : VINAY JOSHI AND
M.W. CHANDWANI, JJ.

DATED : 08th NOVEMBER, 2023.

Heard.

2. The petitioner has been convicted for an offence punishable under Section 138 of the Negotiable Instruments Act vide Judgment and Order dated 06.04.2018 passed by the Judicial Magistrate, First Class, Akola in S.C.C. No.10320/2005. Being aggrieved, the petitioner has filed a Criminal Appeal bearing No.58/2018, which is pending in the Court of Sessions. The petitioner has moved an application (Exhibit No.40) seeking remand of the matter to the Trial Court for non-compliance of Section 143 of the Negotiable Instruments Act. The learned Sessions Judge chooses to hear the said application at the time of final hearing, which is impugned herein.

3. According to the petitioner, the Sessions Judge ought to hear the application Exh.No.40 independently before proceeding with the appeal. Admittedly, the appeal is kept for final argument. The issue is whether the Court of Magistrate has tried the case as Summary under Chapter-XXI of the Code of Criminal Procedure or tried as a summons case under Chapter-XX of the Code of Criminal Procedure.

4. We see no reason to compel the Sessions Judge to hear the application Exh.No.40 at first, since the stage is for final argument.

5. However, we are certain that the learned Sessions Judge shall consider the application Exh.No.40 at the time of argument and decide the appeal in accordance with law.

6. In view of above, the Criminal Writ Petition stands dismissed.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)