



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 763 OF 2024

MAYUR VASANT SONAWANE @ MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. Datta A. Madake, Advocate for the Petitioner
Mrs. S.S. Joshi, APP for Respondents/State

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 23rd APRIL, 2024

PER COURT :

1. By this petition filed under Article 226 and 227 of the Constitution of India and Section 482 of Code of Criminal Procedure, petitioner challenges order of issuance of process dated 27/04/2022, passed by learned Judicial Magistrate First Class, Sillod, below Exhibit-1 in Summary Criminal Case No.393/2022 and the order dated 26/10/2023, passed by learned Additional Sessions Judge, Aurangabad, in Criminal Revision Application No.140/2022.

2. Respondent No.2 has filed proceedings under Section 138 of Negotiable Instruments Act, against petitioner claiming dishonour of cheque of Rs.04 lakhs. After recording verification and perusing the documents placed on record by respondent No.2, trial Court has issued process against petitioner under Section 138 of N.I. Act. Petitioner challenged the order of issuance of process by filing Criminal Revision Application No.140/2022, mainly on the ground

that cheque was issued by Adisanskar Enterprises, however, petitioner is arrayed as respondent accused in his individual capacity. Ground is also raised that, the debt is not legally enforceable debt. Revision application came to be dismissed by the Sessions Court holding that learned Magistrate after consideration of documents and complaint has rightly issued process under Section 138 of N.I. Act.

3. Heard learned advocate for petitioner and learned APP for respondent No.1/State. Perused the memo of writ petition along with documents annexed thereto.

4. From record it appears that, in reply notice petitioner has admitted that he is sole proprietor of Adisanskar Enterprises. Defence sought to be raised by petitioner cannot be considered at preliminary stage of issuance of process, it is matter of evidence before trial Court. Petitioner will have to prove before the trial Court that cheque was not issued for legally enforceable debt.

5. Learned advocate for petitioner has relied on ***Pradeep Yashwant Nagrale Vs. Vyankanna Laxmanna Gorantiwar and Another, 2023 All.M.R.(Cri) 3925***. The said judgment is rendered in different facts and the same is misconceived and misread, therefore, it does not help the case of petitioner.

6. On going through the complaint, order of issuance of

process and the order passed by Sessions Court, there is no error of law or jurisdictional error in the order of issuance of process. The revisional Court has rightly confirmed the order of issuance of process. No case is made out by petitioner to interfere in the impugned order in exercise of extraordinary writ jurisdiction. Writ petition being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)