



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

17 CRIMINAL WRIT PETITION NO. 1948 OF 2024

**SUNIL BAPURAO SAKHARE
VERSUS
SANTOSH SHIVAJI SHINDE**

.....
Advocate for the Petitioner : Mr. Nitin Trimbak Tribhuwan
.....

**CORAM : Y.G. KHOBRADE, J.
DATE : 09.12.2024**

PC.:-

1. The learned counsel appearing for the Petitioner seeks leave to invoke Section 482 of the Cr.P.C. with Article 226 of the Constitution of India. Necessary amendment be carried out within one week from today.

2. Heard advocate Shri Tribhuwan the learned counsel appearing for the Petitioner at length. By the present petition the Petitioner takes exception to the order dated 22.07.2024 passed by the learned JMFC (Court No.4), Ambajogai below Exh.51 in SCC No.126/2021. It is not out of place to mention here that the present Petitioner/Complainant filed a complaint SCC No.126/2021 under Section 138 of the N.I. Act and prayed for appropriate punishment against the Respondent/Accused for dishonour of cheque to the tune of Rs.8,40,000/-. After service of summons the Respondent/Accused duly appeared in the matter and was enlarged on bail on furnishing PR bond and SB. However, subsequently the accused remained absent. Therefore,

non-bailable warrant was issued but it was not executed. So also, the surety of the accused was served with the notice. The surety of the Petitioner was forfeited and the surety holder deposited an amount of Rs.15,000/-. Therefore, non-bailable warrant was issued as against the present Respondent, so also, he was declared as proclaimed offender under Section 83 of the Cr.P.C.

3. The Petitioner has filed Exh.51 under Section 174 of the I.P.C. and prayed for taking action against the Respondent/accused person and permission to attach the property.

4. On 22.07.2024, the learned JMFC, Ambajogai passed an order holding that the accused has already been declared as proclaimed offender under Section 412, so also, his property has been attached under Section 83 of the Cr.P.C, however, it is not clear as to whether the accused is having knowledge about his proclamation as absconding. So also, the accused has not been arrested. Hence, the conclusion about committing an offence punishable under Section 174 of the I.P.C. cannot be drawn. Therefore, I do not find that the impugned order is illegal, bad in law and no interference is called at the hands of this Court. Hence, the Petition is dismissed.

[Y.G. KHOBRADE, J.]