

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

**WRIT PETITION NO. 3673 OF 2024
WITH
WRIT PETITION NO. 3674 OF 2024**

Pradeep Laxman Walekar

.. Petitioner

v/s.

Mr. Kiran @ Pandit Kalyankar & Anr.

.. Respondents

Mr. Rohit D. Joshi for the Petitioner.

Mr. Deepak C.Natu a/w. Ms. Gayatri Soni i/b. M/s. N. Deepak
and Co. advocates for Respondent No.1.

Ms. P.P.Bhosale, APP for the Respondent No.2-State.

**CORAM : SHYAM C. CHANDAK, J.
DATE : 4th SEPTEMBER, 2024.**

PC :

. The aforesaid Petitions have been filed under Article 227 of Constitution of India and under Section 482 of Cr.P.C. Both the Petitions seek quashing and setting aside of separate impugned Order dated 13th October 2023 passed by the 2nd Judicial Magistrate First Class, Panvel. Respondent No.1 resisted the Petitions by filing separate Affidavit in reply.

1.2) The parties and the issue involved in both the Petitions are common. Hence, both the Petitions are taken up together, for disposal.

2) Heard learned Advocate Mr. Rohit Joshi for the Petitioner,

Mr. Deepak Natu for Respondent No.1 and Ms. Bhosale, APP for the Respondent No.2-State. Perused the Petition and the affidavit in reply.

3) Rule. Rule made returnable forthwith and with the consent of the parties, taken up for final hearing.

4) Facts giving rise to these Petitions are as under:

The Petitioner has filed Summary Case Nos.1251 of 2019 and 1250/2019 in the Court of 2nd Judicial Magistrate First Class, Panvel. Respondent No.1 has been arrayed as accused in the said cases, alleging an offence punishable under Section 138 of the Negotiable Instrument Act, 1881. The Respondent No.1 failed to comply the said Court's Orders to deposit the amount of interim compensation towards the dishonoured cheque in the respective case. Therefore, the Petitioner filed an Application at Exhibit 75 in Summary Case No.1250 of 2019 praying to forfeit the right of cross-examination of Respondent No.1 on account of the said defaults. Similar Application Exhibit 75 was filed in Summary Case No.1251 of 2019. The learned trial Court rejected the said Applications by separate impugned Order dated 13th October 2023. Hence, these Petitions.

5) Considering the nature of the impugned Orders, there is no dispute that remedy has been provided under Section 421 of Cr.P.C. to proceed against the Respondent No.1 to recover the interim compensation amounts. The Petitioner has already availed the said remedy and only persuasion thereof is required. Learned Advocate for the Petitioner stated that the said Orders of interim compensation have been communicated to

the Collector and Tahsildar concerned and that, he would take the essential steps in the matter. As such no further directions are required in these Petitions except to call for the report from the Collector and Tahsildar concerned as to the timely execution of the interim compensation Orders. Learned Advocate for the Petitioner submits that this direction would be sufficient, for the present.

6) In view thereof, the Petitions are liable to be disposed of. Hence, the following Order:

- ORDER -

- i) The Petitions are disposed of.
- ii) The Petitioner to take steps for execution of the Orders of interim compensation.
- iii) The learned trial Court is requested to pass necessary Orders and call the report of implementation and execution of the interim compensation Orders from the Collector and Tahsildar concerned.
- iv) The Petitions stand disposed of in the aforesaid terms.
- v) Rule is made absolute.

JYOTI
RAJESH
MANE

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JYOTI RAJESH
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Date: 2024.09.09
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(SHYAM C. CHANDAK, J.)