



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

19 CRIMINAL WRIT PETITION NO. 449 OF 2025

AMOL SUBHASH GHODKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. Sanket Kulkarni, Advocate for the petitioner.
Ms. Chaitali Choudhari Kutti, APP for the respondent-State.

CORAM : KISHORE C. SANT, J.
DATE : 11.08.2025

PC :-

01. Heard learned Advocate for the petitioner. The petitioner, original accused in a complaint bearing SCC No. 13513 of 2022 filed under the provisions of Section 138 of the Negotiable Instruments Act, has challenged an order dated 28.01.2025 passed by the learned Additional Sessions Judge-10, Aurangabad in Criminal Revision No. 103 of 2024, whereby his revision came to be rejected, challenging the order of issuance of process issued by the learned JMFC, Court No 16, Aurangabad dated 16.01.2023.

02. The learned Advocate for the petitioner argued that the learned JMFC has passed order of issuance of process without application of mind and without conducting proper enquiry under section 202 of the

Cr.P.C. The accused is resident of Khudawadi, Tq. & Dist. Dharashiv and thus residing beyond the jurisdiction of the Trial Court. He further submits that the Court has merely perused the complaint, documents and verification under section 200 of the Cr.P.C. and has issued process. He further submits that the learned Sessions Judge has also failed to apply its mind properly. Though the petitioner is residing at Khudawadi, Tal. & Dist. Dharashiv, the learned Sessions Judge has observed in the order that he is resident of Karnataka. He submits that this clearly shows that there is non-application of mind and some other matter is copied and pasted in the present matter. He thus submits that the order of issuance of summons and the order of learned Sessions Judge deserve to be quashed and set aside

03. After hearing the parties, this Court has seen the order passed by the learned JMFC. This Court finds that the learned Magistrate has stated in the order that he has perused the complaint, documents and verification. It is also further appearing in the order that he has also conducted enquiry under section 202 of the Cr.P.C. The learned Advocate for the petitioner on this point relies upon order passed by the Hon'ble Apex Court in **Odi Jerang Vs. Nabajyoti Baruah & Ors., SLP (Cri) No. 2135 of 2022**. In the said case, process was issued for the offence

punishable under sections 120-B, 406, 420 r/w 34 of the Indian Penal Code. In that case summons was issued on examination of the petitioner therein under section 200 of the Cr.P.C. The evidence of the witnesses was recorded before framing of the charges. It is at that stage the respondent-accused raised an objection on the ground that though some of the accused were residing at place beyond the area of jurisdiction of the learned Magistrate, mandatory requirement of section 202 (1) of the Cr.P.C. was not followed. On that ground the order of issuance of summons was challenged. The High Court quashed the order of issuance of summons remanding complaint to the learned Magistrate. The objection was raised at belated stage. The Hon'ble Court found that substantial compliance in that case was not made by the learned Magistrate, in view of mandate under section 202 of the Cr.P.C. It was held that non-compliance thereof will result in failure of justice. The order passed by the High Court of remand of the matter was maintained.

04. In the present case, however, this Court finds that when the learned Magistrate himself records that he has also conducted enquiry under section 202 of the Cr.P.C., this Court has to go by the same. No specific format or manner is provided for enquiry under section 202 of the Cr.P.C. Once the learned Magistrate records that he has conducted

enquiry, this Court need not go into the question. It was conducted in the manner as expected by the petitioner.

05. This Court does not find any substance in this petition. This Criminal Writ Petition, therefore, stands dismissed.

[KISHORE C. SANT, J.]