



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

23 CRIMINAL WRIT PETITION NO. 990 OF 2025

SAMPAT RAMBHAU WARBHUVAN

VERSUS

OSMANABAD JANTA CO OPERATIVE BANK LTD BRANCH OSMANABAD
THR BRANCH MANAGER LAXMAN SHIVAJIRAO AANCHULE

Mr. P.B. Rakhunde, Advocate for the petitioner.

CORAM : KISHORE C. SANT, J.
DATE : 24.07.2025

PC :-

01. Heard learned Advocate for the petitioner for sometime. The petitioner has approached this Court for quashing the proceeding filed against him under section 138 of the Negotiable Instruments Act [for short "NI Act"], bearing SCC No. 2491 of 2019, pending before the learned Chief Judicial Magistrate, Osmanabad. It is case of the petitioner that after filing of the complaint under the NI Act, the respondent-bank initiated action even under the the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [for short "the SARFAESI Act"]. In the proceeding under the the SARFAESI Act, the petitioner deposited amount of loan along with interest in the year 2022 and the same is recorded by the learned Presiding Officer, Debt Recovery Tribunal on 25.11.2023. He submits that proceedings under section 138 NI Act and under the SARFAESI Act Act are taken against the petitioner for the same loan transaction and the amount outstanding against him. Since the liability is already discharged, there is no question of prosecuting the petitioner under section 138 of the NI

Act. He thus submits that said proceeding deserves to be quashed and set aside.

02. This Court finds that complaint under section 138 of the NI Act was filed in the year 2019 and the proceeding under the the SARFAESI Act Act was taken out thereafter. If now the liability is discharged, it is for the petitioner to satisfy the Trial Court that now no liability is in force against present petitioner. This Court cannot go into the aspect as to whether as on today the liability is there or not. This Court finds that this petition cannot be entertained.

03. The petition is, therefore, dismissed. It is open for the petitioner to take defense in the Trial Court and satisfy the said Court.

[KISHORE C. SANT, J.]