



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

40 CRIMINAL APPLICATION NO. 3785 OF 2024

RAMCHANDRA SARJERAO SOLANKE
VERSUS
SUSTAINABLE AGRO COMMERCIAL FINANCE LTD THROUGH MANOJ
GOVINDLAL SHARMA

Mr. Suvidh S. Kulkarni, Advocate for the applicant.
Mr. S.K. Chavan, Advocate for sole respondent.

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

PC :-

01. Heard learned Advocates for the parties. The applicant is accused and the respondent is complainant in SCC No. 915 of 2020 before the learned Chief Judicial Magistrate, Jalna.

02. Challenge is to an order dated 07.08.2020 passed by the learned Trial Judge, issuing process against the present petitioner for the offences punishable under section 138 of the Negotiable Instruments Act. It is case of the petitioner that the learned Magistrate has passed order of issuing process without conducting enquiry under section 202 of the Cr.P.C. Present accused is resident of village-Mungi, Tal. Dharur, Dist. Beed i.e. a place beyond territorial jurisdiction of the learned Magistrate.

03. Learned Advocate for the respondent vehemently opposes the petition. He submits that the impugned order is dated 07.08.2020, whereas the petition is filed after about four years i.e. on 22.08.2024. The petition suffers from delay and laches and therefore deserves to be dismissed. He relies upon following judgments :-

- i) Indian Bank Association & Ors. Vs. Union of India & Ors., 2014 DGLS(SC) 389.
- ii) Bansilal S. Kabra Vs. Global Trade Finance Limited and Anr., 2024 DGLS (Bom) 1611.
- iii) G. Malarvizhi & Ors. Vs. Mr.P. Sampath & Anr., 2023:DHC:4437.

04. The learned Advocate for the applicant does not dispute the proposition that before issuing of notice to the accused residing outside territorial jurisdiction of the learned Magistrate, it is mandatory to conduct enquiry under section 202 of the Cr.P.C. The judgments relied upon by the respondents are about mode and manner of conducting enquiry. On the strength of these judgments, he submits that in the present case the learned Magistrate has considered the affidavit in lieu of the evidence filed by the respondent along with complaint. Thus, there is sufficient compliance of enquiry under section 202 of the Cr.P.C.

05. Looking to the order impugned in the petition, it is seen that

the matter was kept for verification of the complaint. The complainant and his Advocate, both were absent. The learned JMFC relied upon judgment in the case of **Indian Bank (supra)**. He further observed that he perused the complaint and the documents. He got himself satisfied on the basis of scrutiny done and found that there is sufficient material to issue process against the accused. From the order it does appear that the learned Magistrate conducted enquiry under section 202 of the Cr.P.C. It would be in the interest of justice to following order :-

- i) This Criminal Application is partly allowed.
- ii) Impugned order dated 07.08.2020 passed by the learned JMFC, Court No.4, Jalna below Exh.1 in SCC No. 915 of 2020 is hereby quashed and set aside.
- iii) The complaint is remanded back to the learned Magistrate. After remand the learned Magistrate shall conduct enquiry under section 202 of the Cr.P.C. and pass necessary orders.
- iv) Since the complaint is pending from 2020, the learned Magistrate to dispose of the complaint as expeditiously as possible and preferably within 18 months from the date of remand.

[KISHORE C. SANT, J.]