



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 CRIMINAL APPLICATION NO. 3433 OF 2025

Bipin S/o. Kanhaiyalal Jaiswal,
Age-42 years, Occu-Private service,
R/o. Sancheti Hospital, Modikhana,
Jalna, Dist. Jalna

...**APPLICANT**
[Ori. Accused]

VERSUS

1. The State of Maharashtra
through the Police Station
Sadar Bazar, Jalna

2. Anis Syed S/o. Shamshoddin Syed,
Age-38 years, Occu- Business,
Near Noorani Masjid, Kanhaiya Nagar,
Jalna, Dist. Jalna.

...**RESPONDENTS**
[R.No.2 Ori. Complainant]

Mr. Madhav P. Gude, Advocate for the applicant
Mr. K. S. Patil, APP for the respondents/State

CORAM : ABHAY J. MANTRI, J.

DATE : 20th NOVEMBER, 2025

ORAL JUDGMENT:

1. Heard. **Rule.** Rule is made returnable forthwith and heard the application finally by consent of the learned advocate for the applicant and the learned APP for the respondent/State.

2. The applicant is challenging the order dated 21-04-2025 passed by the learned Additional Chief Judicial Magistrate, Jalna (for short, the '**Magistrate**') below Exh.76 in SCC NO.1709/2018, thereby rejected the application for seeking direction against the Returning

Officer, Election Commissioner Office at Jalna to produce the copy of the affidavit submitted by the complainant to them, has preferred this application.

3. The learned advocate for the applicant submitted that the respondent has filed an affidavit dated 29-10-2024 before the learned Election Commissioner, wherein he has stated that no debt is due towards the accused, i.e., the applicant. Therefore, the petitioner sought direction against the Returning Officer, Election Commissioner's Office, to produce the same on record. According to him, the same is required for the proper adjudication of the dispute. However, I do not find substance in his contention, as it is not at all relevant to the question in dispute between the parties.

4. On perusal of the impugned order and record, it seems that respondent No. 2 has filed the proceeding under Section 138 of the Negotiable Instruments Act against the applicant herein, and therefore, in my view, said directions to the Returning Officer, Election Commissioner's Office to produce the affidavit filed before him by the respondent is not relevant to determine the question in dispute, when he does not dispute his signature on the cheque in question. And in such an eventuality, the presumption U/s 139 of the N.I. Act is attracted.

5. The learned Magistrate has considered the said facts and rightly passed the order. The learned advocate for the applicant failed to point out any illegality or perversity in the impugned order. On the contrary, it seems that the impugned order is just and proper. Hence, no interference is required in the said order.

6. Consequently, the criminal application being devoid of merits, stands dismissed. No order as to costs. Rule stands discharged. Inform the order to the learned Court accordingly.

[ABHAY J. MANTRI, J.]

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