



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 308 OF 2025

DNYANDEV S/O BHAGWAT SURALKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for the Petitioner : Mr. Nasimoddin R. Shaikh
APP for Respondent-State : Mr. S. M. Ganachari
Advocate for Respondent No. 2 : Mr. Shaikh Aslam Abdul Samad

CORAM : SACHIN S. DESHMUKH, J.

Date : 3rd October, 2025

ORDER :-

1. The petitioner has challenged the judgment and order dated 10.02.2025 rendered by the learned Judicial Magistrate First Class, Yawal, Dist. Jalgaon. By this order, the learned Magistrate has returned the complaint to the complainant as per Section 201 of Code of Criminal Procedure (hereinafter "CrPC" for short) and directed to present the complaint before the proper Court having jurisdiction.

2. The petitioner (original complainant) filed a complaint against respondent No. 2 under Section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate First Class, Yawal, Dist. Jalgaon, following the dishonour of a cheque issued by

the respondent. The learned Magistrate issued process against respondent No. 2 and subsequently recorded the plea. Thereafter, the petitioner filed their evidence-affidavit on 07.10.2023.

3. In the interregnum, respondent No. 2 filed an application (Exh. 47) asserting that the cheque was deposited with the SBI MIDC Branch, Jalgaon on 07.01.2022. The respondent contends that since this branch is outside the local jurisdiction of the Magistrate Court, Yawal, the complaint should be dismissed for want of jurisdiction.

4. The complainant opposed the application, submitting that the Magistrate has proper jurisdiction as the complainant maintained account in State of bank of India Branch, Yawal and only for encashment of the said cheque was deposited at MIDC Branch, Jalgaon wherein it was returned with the remark "funds insufficient" and emphasized that they reside within the learned Magistrate's territorial jurisdiction. Consequently, the complainant requested the rejection of the application.

5. The learned Magistrate, after considering the application under Sections 142 and 142(2) of the NI Act, issued an

order dated 10.02.2025 holding that the court lacked jurisdiction. Consequently, the complaint was returned under Section 201 of the CrPC for presentation before the appropriate Court.

6. The learned counsel for the petitioner submits that the Magistrate ignored the provisions of Section 142(2) of the NI Act, as well as material evidence, while relying on non-existent facts. Specifically, the Magistrate failed to appreciate that the petitioner deposited the cheque from an SBI Jalgaon branch into their personal account maintained at the Yawal branch. Consequently, the petitioner contends that the Magistrate erred in returning the complaint under Section 201 of the CrPC

7. In order to support the submission, the learned counsel for petitioner has placed reliance on the following judgments.

- (I) **Criminal Appeal No. 1557 of 2015 (Bridgestone India Pvt. Ltd. Vs. Inderpal Singh)** dated 24.11.2015 delivered by Hon'ble Supreme Court
- (II) **Criminal Writ Petition No. 4073 of 2014 (Vasant S. Gala Vs. State of Maharashtra and Anr.)** dated 28.04.2015 delivered by Coordinate Bench of this Court

8. Per contra, the learned APP for the State and the learned counsel for respondent No. 2 supported the impugned

order. They submitted that the learned Magistrate was correct in returning the complaint under Section 201 of the CrPC due to lack of jurisdiction, and they consequently prayed for the dismissal of the petition.

9. Heard learned counsel for the petitioner as well as the respondents and perused the entire record.

10. A perusal of amended Section 142(2) of the Negotiable Instruments Act, 1881, clarifies—particularly through its explanation—that for offences under Section 138, territorial jurisdiction is determined by the location where the cheque is delivered for collection. Specifically, the branch of the bank where the payee or holder in due course where the drawee maintains an account is the determinative factor for territorial jurisdiction. Admittedly, the petitioner is having account at Yawal Branch.

11. It is a matter of record that affidavit of evidence is filed by the petitioner and therefore, the case had reached to the stage of Section 145 of the NI Act. Nevertheless, as has been held by the Coordinate Bench of this Court in the case of **Vasant Gala (supra)**, in view of applicability of the provisions of Section 145(1)

of the NI Act, that once an affidavit under section 145 (1) of the Act has been filed, the said case is said to have reached the stage of section 145 (2) of the Act and in such a case, the complaint cannot be returned.

12. In that view of the matter, the order rendered by the learned Magistrate cannot be regarded as sustainable and accordingly, the same liable to be quashed and set aside. Resultantly, the impugned order warrants interference.

13. As such, the writ petition stands **allowed**. The learned Judicial Magistrate First Class, Yawal, Dist. Jalgaon, to try and entertain the complaint presented by the petitioner/ original complainant.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi