



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.24/2025

MAHENDRA HARILAL
VERMA

... PETITIONER

Versus

MUKTAMALA VINOD
FONDVEKAR

... RESPONDENT

Ms M. Furtado, Advocate for the Petitioner.

CORAM: VALMIKI MENEZES, J.

DATED: 23rd JUNE 2025

P.C. :

1. Registry to waive objections and register the matter.
2. This is a petition impugning order dated 06.03.2025 by which the JMFC Panaji has rejected applicant's/original accused's application for leave to defend under Section 145(2) of the Negotiable Instruments Act (N. I. Act).
3. The complaint filed in this matter alleges that the applicant had taken a friendly loan from the complainant of Rs.2 lakhs in July 2022 and in repayment of the same, had issued a cheque which was post-dated for the same amount. The complainant further alleges that the cheque which is dated 13.09.2023, drawn on Bank of India on the account of the accused was returned back

to her by her banker with the endorsement that the same was dishonoured for the reason of insufficient funds in the account of the accused. The complainant alleges that after the cheque was dishonoured she issued a demand notice on 21.12.2023 which was received by the accused and no reply to the same was forthcoming. Under these circumstances the complainant filed Complaint No.CC/0A/16/2024 before the JMFC at Panaji under Section 138 of the N. I. Act.

4. The complainant's affidavit submitted during the course of verification was treated as her evidence, at which time the applicant/accused filed an application at Exh.25 seeking leave to cross-examine the complainant in terms of sub-section 2 of Section 145 of the N. I. Act. The two grounds urged in the application are that the cheque was not issued for any liability and there was no enforceable debt, and second ground mentioned in the application was that the complainant had made various false statements and suppressed material facts while filing the complaint.

5. Perusal of these two grounds would reveal that both are extremely vague with not a single particular of a fact or a date or a document or even a reference to such document that would enable the Court to exercise jurisdiction under sub-section 2 of Section 145 to grant the accused leave to cross-examine. There is no defence worth the name stated in either of the grounds to enable the Court to even fathom against as to what was the defence that the accused wanted to put up.

6. In the impugned order dated 06.03.2025, and more particularly at paragraph 6 thereof, the learned Magistrate has considered two grounds and applied the law laid down by the Supreme Court in *Meters and Instruments Private Limited & Anr. v. Kanchan Mehta*, reported in *2018 (i) SCC (Cri) 477* and of this Court in *Paresh Bandekar v. Rajaram D. Satardekar*, reported in *2021 SSC Online Bom 254* and *Sameer Tukaram Govekar v. State of Goa and Anr.*, passed in *WPCR/46/2024* and has rightly rejected the application after applying the law laid down in those judgments under sub-section 2 of Section 145 of the N.I. Act. What is required by the application is that the accused must disclose some probable defence, and the defence cannot be absolutely vague and general as is the case stated in grounds (a) and (b) of the application.

7. There is no case made out to interfere with the impugned order in supervisory jurisdiction.

8. The petition is rejected.

VALMIKI MENEZES, J.