

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Writ Petition No. 1357 of 2025

Mr. Omprakash Ramgopal Rathi ... Petitioner
V/s.
State of Maharashtra and anr. ... Respondents

Mr. Chetan A. Alai a/w. Ms. Rama Somani a/w. Mr. Pranit Pawar	Advocate for the Petitioner.
Ms. G.S. Rao	APP for the State.
Mr. Jagdish Choudhary a/w. Ranvir Shekhawat i/b. M/s. Raj Legal	Advocate for Respondent No.2.

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CORAM : S.M. MODAK, J

DATE : 21st August 2025.

P.C. :

Heard learned Advocate for the Petitioner-Accused and learned Advocate for Respondent No.2-Complainant.

2. According to accused there was tampering in the totaling of four cheques mentioned in table in Para No.3 of the affidavit filed by the Complainant. Earlier the total was Rs.36,69,855/- and after filing it in Court the Complainant without seeking permission of the trial Court corrected it as Rs.35,69,855/-. **To support this contention the accused relies upon the following circumstances:-**

(i) In the copy supplied to him, the total of figure comes to

Rs.36,69,855/-. This is not disputed on behalf of the Complainant.

- (ii) There are two corrections in the affidavit.
- (iii) In the name of the Complainant on first page initials are put and in the total of the table in Para No.3 also initials are put. The accused contend that these initials appear to be different. Even the signature of the Complainant appearing at the verification is also different.

3. On the above background the accused filed an application before the trial Court requesting for taking action for an offence committed under Section 204 of Indian Penal Code. After hearing the Complainant, the trial Court **rejected the application vide order dated 23rd January 2025.** This order is under challenge. **The findings given by the trial Court are as follows:**

- (i) the offence under Section 204 of IPC is not attracted.
- (ii) the issue whether tampering was done after its filing or earlier to the filing can be decided at the time of final adjudication of the matter.

4. **In this petition following are the prayers made:**

- (i) the said order be set aside.
- (ii) Matter be remanded back for re-hearing of the application.

5. Learned Advocate for the Respondent-Complainant submitted

that this correction was done earlier to filing in the Court. He invited my attention to execution and verification of that affidavit. It was executed on 22nd July 2016 whereas it was affirmed on 14th September 2016. According to him during that period the Complainant realised the calculation mistake in the table in Para-3 and that is why he corrected it prior to filing in the Court. What is not done is correction in the copy of the affidavit supplied to the accused.

7. The issue is “*whether the trial Court was justified in deferring the adjudication on this issue till time of final arguments of the case.*” *The issue involved in the application for taking action under Section 204 of IPC is a limited issue.*” That is to say whether the tampering was done prior to filing of that affidavit or after filing the affidavit in the Court and if it is so, what is the action to be initiated. **Whereas in trial for an offence under Section 138** of the Negotiable Instrument Act, larger issues are involved. Some of them are:-

- (i) Whether the liability is rebutted?
- (ii) What is the reason for dishonour?
- (iii) Whether the notice is served?

8. Even though the learned trial judge has not given the reason for deferring the adjudication, this Court is fully conscious of the reason for deferring the adjudication. So to say if the issue of tampering is decided prior to the main adjudication and if there are findings in favour of either of the party, it may happen that it will

cause prejudice to either of the party. When the issues are connected, it is always better to decide those issues simultaneously. **I do not find the learned Judge has committed any wrong in deferring the adjudication.** So I find no interference is required. Hence, the petition is dismissed.

9. When the trial Court will decide the case finally, it is expected from the trial Court to pass certain order on the issue of alleged tampering. Depending upon the outcome of that finding, the aggrieved party; either the Petitioner or the Respondent are at liberty to take appropriate steps.

(S.M. MODAK, J.)