

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

CRIMINAL WRIT PETITION NO. 4207 OF 2025

Priti @ Preeti Kushal Lodha
And Anr.

...Petitioners

Vs.

The State of Maharashtra And Anr.

...Respondents

Mr. Manas Gawankar	Advocate for the Petitioners
Mr. N. B. Patil	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 06th AUGUST 2025

P. C. :-

1. Heard learned Advocate for the Petitioners-accused and learned APP.
2. Today the matter is listed for the first time for admission. My attention is invited to an order dated 02.04.2025 passed by the Court of the JMFC, Kurla in case under Section 138 of the Negotiable Instruments Act. The learned Magistrate has directed these Petitioners to pay interim compensation of Rs. 2,12,000/- to the Complainant

within a period of sixty days. It is as per the provisions of Section 143-A of the Negotiable Instruments Act.

3. While passing that order, the learned Magistrate has considered the facts that cheques were issued by the accused, they have not replied to the demand notice and they have not taken defence about showing financial distress. Today, it is submitted that due to ailment, the accused has not pleaded in the reply about payment made to the Complainant.

4. My attention is invited to the bank statement on page no. 35. There is an entry dated 18.12.2019 in favour of the Complainant for Rs. 6,67,812/, an entry dated 07.01.2020 for Rs. 2,00,000/- and an entry dated 11.02.2020 for Rs. 2,00,000/-.

5. The Petitioners contend that this is nothing but payment made towards the cheque. The Petitioner No. 1 is suffering from the cancer. The fact remains that these facts were not pleaded in the reply. He prayed for remanding the matter. When asked, on the basis of the instructions, he submitted that they are ready to deposit Rs. 50,000/- without prejudice before the trial Magistrate.

6. I am inclined to remand the matter. It is for the reason, any party

affected by the decision needs to be given an opportunity to plead the facts. Here, there is a bank statement. Now, whether that payment relates to the amount of the cheque or not can be decided by the trial Court after hearing both the sides. But this opportunity needs to be given to the Petitioners.

7. It is true this Court has not issued notice to the Complainant-Respondent No. 2, but by asking the Petitioners to deposit part of the amount, to a certain extent his interest is protected. In view of that following order is passed:-

ORDER

- (i) The Writ Petition is partly allowed.
- (ii) The order dated 02nd April 2025 passed by the JMFC, Kurla, Mumbai is set aside.
- (iii) The matter is remanded back for fresh hearing to the Court of JMFC, Kurla, Mumbai.
- (iv) The Petitioners are permitted to plead the fact about the payment of the amount by amending the reply.
- (v) Even that the Complainant is at liberty to file counter reply.

(vi) The Petitioners to deposit Rs. 50,000/ before the trial Magistrate within a period of two weeks from the date of uploading of this order.

(vii) The disbursal of the amount will be subject to the outcome of that interim application.

8. With these observations, the Writ Petition is disposed of.

[S. M. MODAK, J.]