



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO. 872 OF 2024
(NASREEN IQBAL GAFULI & ANR..VS.. RANJIT VINODKUMAR ASATI & ANR.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Saurav Rajurkar, Adv. h/f. Shri Anand Parchure, Advocate for Petitioners.
Shri A.A.Vastani, Advocate for Respondent No.1.
Ms Soniya Thakur, A.P.P. for Respondent No.2.

CORAM : ANIL S. KILOR, J.
DATED : FEBRUARY 17, 2025.

1. Heard.
2. The issuance of process by the learned Chief Judicial Magistrate, Gondia and confirmation of the same by the Revisional Court namely, District Judge-1 and Additional Sessions Judge, Gondia in Revision Application No. 32 of 2023 by the judgment and order dated 03/08/2024, is under challenge in this writ petition.
3. It is a settled law that while issuing the process the Court has to look into the complaint and satisfy whether *prima-facie* case is made out and on such satisfaction only the Court is empowered to issue process.

4. In the present matter, there was an Agreement to Sell which was subsequently cancelled and it was agreed between the parties to refund back the amount and it was not refunded. Though this part of the complaint is of a civil nature and to that extent I am of the opinion that there is no element of criminal nature.

5. However, the subsequent part of the complaint states that “Vachanpatra”/ Undertaking was executed by the petitioner which contains signature of the petitioner on each page and which shows that the petitioner issued numerous cheques to refund the amount received against the Agreement to Sell.

6. In the Summary Proceedings initiated under Section 138 of the Negotiable Instruments Act, 1881 by the respondent No.1, the petitioner denied issuance of cheques and also issuance of any Vachanpatra.

7. On a specific query put to the learned counsel for the petitioner, whether on finding that despite no Vachanpatra was signed by her or cheques were not issued by her, Vachanpatra and cheques were produced in the Court proceedings, alleging that they were issued by the petitioner, whether he made any police complaint about the forgery of his signature? The learned counsel for the petitioner fairly states that there is no such complaint made by the petitioner till date.

8. Admittedly, the alleged Vachanpatra is dated 22/06/2013 and in last 12 years no such complaint was made by the petitioner.

9. Thus, raising of such alleged false plea that no Vachanpatra was signed or no cheques were issued, *prima-facie* shows intention of the petitioner to cheat the respondent No.1, which has criminal element. This fact weighed with the learned trial Court as well as the Revisional Court in upholding the order of issuance of process.

10. In that view of the matter, I do not find any merit in the present writ petition and accordingly it is **dismissed**.

(ANIL S. KILOR, J.)