

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 6102 OF 2025**

Jayshree Daulatram Kawle

.. Petitioner

Vs.

Lata Rajendra Soni and Anr.

.. Respondents

Mr. Sarang Bhatia, Advocate for the Petitioner

Mr. Kishor Bhatia, Advocate for Respondent no.1.

Mrs. M.M. Deshmukh, I/C. P.P. with Mr. J.P. Yagnik, Addl. P.P. for Respondent No.2-State.

CORAM : GAUTAM A. ANKHAD, J.

DATE : 10th MARCH 2026

P.C. :

1. The Petitioner who is an accused in a Complaint filed under Section 138 of the Negotiable Instruments Act, 1881 has filed this petition seeking the following relief :-

“(a) that the Writ of Mandamus and or certiorari be issued against respondents to call for papers and proceedings of the Case No.1193/SS/2015, filed before the Ld. Metropolitan Magistrate, 70th court Mazgaon, Mumbai preferred against the order dated 24.07.2025 be called for and this Hon’ble Court after going through the legality, propriety and validity of the Judgment and order dated 24.07.2025, (Exhibit-A hereto), be pleased to quash and set aside the same.”

2. Mr. Sarang Bhatia, learned Advocate for the Petitioner, submits that the learned Magistrate erred in rejecting the Petitioner’s application (Exhibit-110) seeking issuance of witness summons to Advocate K.P. Dubey, who had represented the complainant before the

trial Court. According to the Petitioner, there is a dispute on the Power of Attorney dated 20th November 2014 which is produced by Respondent no.1 in the proceedings. It is contended that there exist two sets of certificates allegedly issued by the Notary, which would demonstrate that the notarized document/ Power of Attorney is doubtful or non-existent. It is therefore submitted that examination of Advocate K.P. Dubey was necessary to ascertain the truth.

3. I have heard the learned counsel for the parties and perused the record. I find no merit in the Petition. The learned Magistrate has passed a reasoned order rejecting Exhibit-110. The essence of the reasoning is that the Petitioner had already examined the concerned Notary, as a defence witness (below Exhibit-109). The said Notary denied issuance of the certificate dated 20th November 2014 for notarizing the Power of Attorney in question. Once the Notary himself has denied notarization of the document, summoning the Advocate representing the complainant for the purpose of proving or disproving the same notarial act was rightly held to be unnecessary. The document which the Petitioner claims contradicts the evidence of the Notary has not been exhibited and does not form part of the trial Court record. The learned Magistrate has correctly appreciated that the

Advocate for the complainant is neither the executant nor the Notary.

4. It is also material to note that the application to examine the Notary itself was moved at a belated stage when the matter was listed for final arguments. Despite such delay, the learned Magistrate permitted the cross-examination of the Notary. It is clear that the present Petition is filed to delay proceedings in a complaint of the year 2015, which is otherwise ripe for final adjudication. The Petition is an abuse of process of law. Accordingly, Writ Petition no. 6102 of 2025 is dismissed.

[GAUTAM A. ANKHAD, J.]

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