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**IN THE COURT OF THE SENIOR CIVIL JUDGE AND
JMFC., ANKOLA, AT: ANKOLA**

Dated this the 12th day of November, 2025.

PRESENT:

**Smt.Priya Ravi Joglekar. B.Com.LL.M.
Senior Civil Judge and JMFC, Ankola.**

C.C. No.299/2022

Complainant: Ambika Pattina Souharda Sahakari
Niyamita, Ankola, (U.K. Dist).

-Vs-

Accused: Suresh Hosabu Nayak

ORDER

The accused filed application under Section 91 of Cr.P.C. for the purpose to call for the documents from the complainant institution.

2. In the above said application, the accused averred that the complainant society has not produced all the documents before this court. Though the accused has repaid the loan, the complainant society has filed the present case. In the cross-examination, the

complainant society admitted that they have not produced some documents before the court and if the court order for produce the document, then they will produce the documents. Some documents are necessary for this case that the accused repaid the loan obtained from complainant society. If the complainant society is not produced the document, the present case may not be proceeded. Hence, issue direction to the complainant society to produce the documents as mentioned in the application. Hence, he prays for allow the above said application.

3. Per contra, the learned counsel for the complainant filed objections to the above said application and contended that the present application is not maintainable in law. The defence cannot seek to recall or compel production of documents which are neither relied upon by the complainant nor necessary for the adjudication of an offence under Section 138 of NI Act. The complainant has already produced all relevant documents. The documents now sought are irrelevant to the determination of dishonour of cheque. Once the cheque and signature are admitted or proved, a presumption arises in favour of the complainant. The case is now posted for cross-examination of the complainant The complainant society has filed the

complaint through its authorized representative whose authorization letter is already produced and once authorization is on record, the accused cannot demand production of society bye-laws or other internal documents. Hence, prays to dismiss the application with costs.

4. Heard both sides.

5. On perusal of the entire records, the points that would arise for my considerations are:

1] Whether the accused has made out sufficient grounds to allow the application?

2] What order?

6. My answer to the above points are as under:-

Point No.1 : **In the Negative**

Point No.2 : As per the final order for the following:

REASONS

7. **Point No.1**: On careful perusal of the records, it is clearly noticed that the trial commenced by the complainant society and got marked the 8 documents before this court which are necessary to prove the alleged offence punishable under Sec. 138 of NI Act. Further it is noticed that these documents are marked as Ex.P1 to P8. The accused filed application under Sec.91 of Cr.P.C. on 03.09.2025. When the alleged cheque bearing No.789563 was returned with endorsement dated 21.11.2019 by

mentioning the shara of "Account Dormat". In this regard, the complainant institution issued legal notice to the accused. The Ex.P4 and P5 documents itself go to show that the legal notice was duly served to the accused. After serving of notice to the accused, he neither replied nor repaid the legal recoverable debt to the complainant. It is the case of the complainant is that when the accused has failed to comply the Section 138 of NI Act, therefore the accused has committed the offence punishable under Sec. 138 of NI Act. It is clearly noticed that even though the complainant institution issued legal notice to the accused, he never replied to the legal notice. But, now filing the above said application he contended that though he had repaid the loan amount, the complainant society has filed the present case against him. If really, the accused had repaid the loan amount, then he could reply the legal notice. Further it is also noticed that the accused has not take any legal action against the complainant institution after serving the legal notice and till today. Therefore, the attitude of the accused itself goes to show that he is dragging the proceeding without any reason. Moreover, the PW 1 has lead the evidence and he has produced 8 documents relating to this case. Further the PW 1 was partly cross-examined. Now at this stage the accused has filed this application. It is not the case of the accused. But, it is burden lies on the complainant to prove his case. Therefore, the contention was taken by the

accused by filing the above said application is neither reliable nor believable. Hence, it is not necessary to allow the above said application. Consequently, I answer **point No.1 in the Negative.**

8. **Point No.2:** In view of my reason on Point No.1, I proceed to pass the following:

ORDER

The application filed by the accused under Section 91 of Cr.P.C. is hereby dismissed with costs of Rs.100/-.

(Directly dictated to the Stenographer, typed by her, corrected and revised by me and then pronounced in the open court on **12th November, 2025**)

sd/-

**(Smt.Priya Ravi Joglekar)
Senior Civil Judge and JMFC, Ankola.**