

MHKO050033872021

**ORDER BELOW EXH. 21 IN S.C.C. NO. 1903/2021**

This is the application filled by the accused for stopping the proceeding against her as per section 258 of the Code of Criminal Procedure.

2. Accused had stated that complainant has filed present complaint under section 138 of Negotiable instruments Act. There is no agreement between complainant and accused for sanctioning loan. One Autal Chandrakant Sutar is agent for sanctioning the loan in National Bank and Zila udhyog Kendra. Accused and complainant's son Sagar and other people personally inquired with then and submitted all documents to Mr. Atul. As per agreement dated 06.11.2020 Mr. Atul has accepted liability of said amount and loan. Accused has no nexus to sanction the loan. Complainant and accused were never talked with each other. Mr. Atul and complainant are close friends. Accused was given disputed cheque to Mr. Atul for sanctioning loan amount and complainant collected that disputed cheque and misused the same. On 18.03.2021 accused has given complaint of fraud in police against Mr. Atul. On 12.03.2021 accused has given complaint at Central Bank of India regarding the cheque as regards to its withdrawal. For that disputed cheque is returned 'payment stopped by drawer'. Prima-facie it

is not proved that disputed cheque has not given for sanctioning loan. Hence, he prayed that he be discharged from this offence.

3. Complainant has filled his say at Exh. 22 and stated that to prolong the proceeding accused has filed this application. The transaction between accused and accused was never done and is only imaginative and creative. Relation between accused and complainant is closer. To avoid the cheque payment accused has filed this application. Complainant do not know Atual Sutar. Complainant has field complaint on 24.08.2021 and send notice under section 138 of NI Act, but accused refused it. Thereafter, accused appeared, give bail and framed plea. After producing evidence, examining the witnesses application under section 258 is maintainable before court. Hence, he prayed that application be rejected.

4. Perusal of the section 258 of the Cr.PC. shows that Magistrate can stop the proceeding at any stage without pronouncing judgment where evidence of principal witnesses has been recorded. But in present case is at initial stage and plea of accused is yet to be recorded. Hence, contention raised by the accused may be considered on merit after evidence of complainant is recorded. Therefore, this application is premature in nature and liable to be rejected.

ORDER

Application at Exh. 21 is hereby rejected.

Sd/-

Date: 22.01.2024
Ichalkaranji

(S. S. Pednekar)
Judicial Magistrate First Class,
(Court No. 6) Ichalkaranji