

COMMON ORDER BELOW EXH. 38 & 39.

Perused applications and say. Heard counsel for both sides.

2. Complainant filed an application at Exh.38 for issuing witness summons to the Manager of Ajara Urban Bank, Ajara to depose and produced bank statement. An application at Exh.39 filed by accused to close evidence side of complainant for non producing list of witnesses along with complaint.

3. Counsel for complainant submitted that, during cross-examination of complainant accused asked some questions related with bank transactions. Hence, for proving the same prayed to allow application. Per contra counsel for accused submitted that, complainant not filed list of witnesses along with complaint. Complainant not fulfill the legal requirement. Hence, prayed to close the evidence of complainant.

4. On perusing record it shows that, complainant along with complaint not filed list of witnesses. Further, accused not challenged the order of issue process on ground of non filing witness list. Further, during cross- examination of complainant put to him some questions relating to bank transactions. By these questions complainant intend to adduce evidence in respect of bank transactions.

5. Further, U/Sec.311 of Cr. P. Code court having inherent power to examine material witnesses. Hence, for final decision of case an opportunity to examine witness need to be given to the complainant. Therefore, I do not find any hold in the submission of counsel for accused to dismiss the case on ground of non filing witness list with

complaint. Hence, this court pass following order,

ORDER

1. Application at Exh.38 is allowed and issue witness summons as prayed by complainant on payment of witness bhatta.
2. Application at Exh.39 of accused for dismissal of complaint is rejected.
3. Parties to take note.

Date: 11.04.2026.

(R. P Thore)
J. O. Code- MH02897
Judicial Magistrate First Class,
Ajara.



ORDER BELOW EXH. 40.

Perused applications and say. Heard counsel for both sides.

2. Accused filed this application through his counsel for his personal exemption for appearance on medical ground. Complainant filed say and strongly opposed.

3. As per record since filing of case till today accused appeared at once for recording his plea. On every date his counsel filed application for personal exemption of accused by assigning medical reason. However, no single document is support he has filed. It shows accused intentionally avoid to present before the court.

4. Though this is case under Negotiable Instrument Act, 1881 and presence of accused is not compulsory before the court. However, accused can not claimed blanket exemption from personal appearance on all dates of hearing. The Sec.228 of B. N. S. Sanhita conferred judicial discretion to Magistrate for exempting accused being physically presenting before the court. In present case, no ground to exercise discretion to exempt accused from his personal appearance.

5. Counsel for accused make statement at bar that, accused will present on next date and kindly exempt his appearance today. As per record, counsel for accused on last date make a same statement at bar that, accused would present on next date. However, today again he filed present application with same reasons. Hence, considering assurance given by counsel for accused as a last chance personal exemption of accused allowed subject to some cost. Hence, this court pass following order,

ORDER

1. Application stands allowed subject to cost of Rs.500/- paid to Legal Aid, Ajara on next date.
2. Accused is directed to remain present on next date without fail.
3. Parties to take note.

(R. P. Thore)

J. O. Code- MH02897

Judicial Magistrate First Class,
Ajara.

Date: 11.04.2026.

