



Order Below Exh.21

Present application is moved by the complainant for seeking permission to appoint General Power of Attorney on behalf of complainant for carrying out proceeding of present case.

02 I have perused the application and heard Ld. Advocate for both parties. It is averred in the present application that complainant is a woman and having household chores due to which she is unable to attend court on every date. It is further submitted in the application that the husband of complainant named Mangesh Devram Kadu is well aware of facts of present case and the complainant appointed him as her Power of Attorney by executing registered deed. Hence, present application is moved by the complainant seeking permission to allow the General Power of Attorney for carrying out proceeding of present case.

03 The learned Advocate for the accused filed his say at Exh.26 and contended that the Power of Attorney of complainant has no knowledge about alleged transaction between complainant and accused. He further contended that complainant is legally eligible for carrying out proceeding of present case and there is no provision of appointment of power of attorney on behalf of complainant to carry out proceeding. Hence, he prayed for rejection of present application.

04 I have perused documents on record. It appears that present case is filed by the complainant under section 138 of the Negotiable Instruments Act against the accused. The present matter is posted for evidence of complainant and the Ld. Advocate for her

moved present application. So far as appointment of power of attorney on behalf of complainant is concerned, the Ld. Advocate for the complainant relied upon ruling of Hon'ble Supreme Court in case of *A.C. Narayanan Vs. State of Maharashtra ; (2014) 11 SCC 790* in which it was held that *"filing of complainant under section 138 through power of attorney is perfectly legal and competent. The power of attorney holder can depose and verify on oath before the court in order to prove the contents of the complaint."* As far as present case is concerned, the complainant, in the present application, specifically stated that the power of attorney holder i.e. husband of the complainant is well aware of the facts of present case. Considering averments in the application and aforesaid ruling, it appears that the power of attorney holder must be given permission to carry out proceeding of present case. Accordingly, following order is passed :

ORDER

- 1) The application at Exh.21 is allowed.
- 2) The permission be granted to the complainant to carry out proceeding of present matter through General Power of Attorney.

Date : 19/10/2023

(S.G.Kuvalekar)
Judicial Magistrate F. C.,
Igatpuri