

S.C.C. 1478-2022
Kalidas Vs Chhaya
MHPU2300-2783-2022

COMMON ORDER BELOW EXH. 19 and 21.
(Passed on 17/02/2025)

The original informant has filed the application vide Exh. 19 to issue distress warrant against accused. On other hand the accused has filed application which is at Exh. 21 to state counter circumstance. The informant has filed his say to the application at Exh. 21 of the accused which is at Exh. 22.

2. Perused the above applications, say along with record of the case. Heard both sides.

3. Ld. Advocate for informant has contended that the order of interim amount i.e. 20 % of the amount of alleged cheque was passed on 28/22/2024 on application below Exh. 12. But the accused failed to comply such order in its terms and to pay the amount of 20% as alleged. Therefore, it is necessary to issue distress warrant against him. Hence prayed to allow the present application.

4. However, the defendant has filed say on the application at Exh. 19 itself and thereby stated that, he is ready to deposit 5000/- in view of order below Exh. 12. Also, on 20/01/2025 he has deposited the amount of Rs. 5000/-. Therefore, the application at Exh. 19 was kept in abeyance. But, today the accused failed to comply the order below Exh. 12 for the payment of whole remaining amount. On the other hand the accused is ready to deposit 5000/- Rs. Further, the accused has stated that, due to her medical reasons, it is not possible to her to pay or deposit the whole amount. In support of her contention, she has filed the medical documents vide list Exh. 24.

5. From above counter submission, and perusal of documents on record it appears that the medical document filed by accused vide list Exh. 24 do not support her contention. The reason is that such alleged medical document are not the medical certificate in the prescribed form declared by medical counsel. Also, the said document prima-facie do not show any serious illness as alleged by the accused which lead to unable her to deposit the amount in view of order below Exh. 12. Already opportunity was granted to the accused to comply the order below Exh. 12. But, it is clear on record that accused failed to comply the said order since 28/11/2024 to till today in for the whole payment of 20% amount of the alleged cheque. It lead to frustrate the object of the inclusion of provision of Section 143-A in Negotiable Instrument Act by way of amendment. Also, the informant today failed to file say whether he is ready to accept the amount of Rs. 5000/- or not. For such reasons, in my view, it is just and reasonable to issue distress warrant against the accused, as prayed by the complainant vide application at Exh. 19. Hence the order.

ORDER

Application below Exh. 19 is allowed issue distress warrant, as prayed.

Rajgurunagar - Khed.
Date: 17/02/2025

(J.V. Maske)
4th J. M. F. C.
Rajgurunagar-Khed, Pune.