

MHRG070006152022



**ORDER BELOW EXH. 17 IN S.C.C. NO.176/2022**

**Shri. Uttam Shankar Chavan**

**..... Complainant**

**Vs.**

**Shivbhakt Jatin Mobile Shop**

**Through. Pro. Pra. Jatin Sanjay Mhase ..... Accused**

01. Accused has filed an application under section 203 of the code of Criminal Procedure Code. It is his contention that, cheque issued by accused is basically illegal. Therefore, present complaint based on aforesaid cheque is illegal. It is also contention of accused that, complainant has concealed many facts from the courts. Therefore, the complaint filed against accused is not maintainable and may be dismissed.

02. Complainant has filed his say at Exh. 19. He denied all the contentions in the application filed by accused. He submits that, application filed by accused is nothing but to avoid pay debt, accused intends to prolong the matter. He also submits that, accused without giving any say to the application filed by complainant, filed this application which is totally wrong.

03. Heard learned Advocates for respective parties. The complaint is filed under the provisions of Negotiable Instrument Act against accused. The present application filed under section 203 of Cr. P.C. In the present case process has been already issued by this court

on 28/07/2022 and thereafter the accused appeared and this court has recorded plea of accused on 25/11/2022. The record shows that present complaint is filed in the year 2022. The filing of present application is nothing but to prolong the proceeding. The matter is pending for filing say of accused on application filed by complainant. The Hon'ble Supreme Court of India in case of, **Iris computer Ltd. Vs Askari Infotech Pvt. Ltd., (2015) 14 SCC 299**, has been pleased to held that "Once the process is issued under Sec.204 thereafter this court cannot go into the stages between the Sec. 200 to Sec. 203". This court is not having jurisdiction to recall the order of issuance of process. Therefore, considering the law laid down by the Hon'ble Supreme Court of India, I come to the conclusion that, the present complaint is not maintainable. Hence, I proceed to pass following order.

**ORDER**

1. The application below Exh. 17 filed by accused is hereby rejected.
2. No order as to cost.

Karjat  
Date-31/01/2025

**(Sujata R. Shinde)**  
Judicial Magistrate F. C.  
Karjat, Raigad