

**ORDER BELOW APPLICATION EXH. NO.05**

(Passed on this *15<sup>th</sup> Day of April, 2017*)

01] This is an application filed on affidavit under section 94 of Criminal Procedure Code, 1973 by the complainant praying for issuance of search warrant in respect of stolen property viz five cheques

**Facts narrated by the complainant in nutshell :-**

02] The complainant has filed complaint against accused No.01 to 06 for the offences punishable under sections 388, 324, 506 and 34 of The Indian Penal Code, 1860. The accused No.01 to 06 in furtherance of their common intention threatened the complainant to implicate in a rape case and compelled him to sign and deliver five cheques. The complainant delivered five cheques drawn on his account maintained with State Bank Of India, Kolad. The cheques are bearing No. 944529 to 944533 each of Rs. Five lac.

03] The accused No.01 and No.02 are spouse. The accused No.03, 05 and 06 are respectively brother-in-law, brother and father of accused No.01.

**04]** The accused No.02 is driver at Mangaon in Posco Company. He remains absent in the house for two to three days due to his work. The accused No.01 developed illicit sexual relations with the complainant. The accused demanded one crore rupees from the complainant or asked him to marry with accused No.01. Now, the cheques are in the possession of accused No.01 to 03 in their house at Kolad and it may be misused.

**05]** Heard Ld. Adv. Mr. M. D. Patil for the complainant. Perused the application. Upon hearing following points arose for my determination. I record my findings and reasons for them below.

Sr. No.	Points for determination	Findings
1.	Is the complainant entitled for issue of search warrant in respect of five cheques in the house of accused No.01 to 03?	Yes.
2.	What order?	Application Allowed.

**REASONS**

**Reasons as to point No.1 :-**

06] The complainant sought the assistance of this Court in view of Section 94 of *Criminal Procedure Code, 1973*. Upon perusal of Section 94 it is clear that, this Court has power to issue search warrant whenever an information is supplied to it respecting *any place which is used for the deposit or sale of stolen property.*

07] The complainant alleged that accused No.01 to 06 by put him in fear of accusation of rape compelled to deliver five cheques. According to Section 410 of The Indian Penal Code, 1860 stolen property means the property, whose possession has been transferred by *theft, or by extortion, or by robbery.* The complainant contended that, act of accused is offence under Section 388 of I. P. C., 1860. There is reason to believe that, possession of cheques is transferred to the accused due to extortion. Hence, five cheques can be said to be stolen property (Section 410) obtained by extortion within meaning of Section 383 and further Section 388 of the Indian Penal Code, 1860.

08] Hence, I am inclined to issue search warrant in respect of five cheques. Hence, I answer point No.1 in the affirmative. Hence, I pass following order to answer point No.2.

**ORDER**

1. The application is allowed.
2. I hereby issue Search Warrant in the name of Police Station, Kolad *u/s.94 of Criminal Procedure Code, 1973* in Form No.11 of the second schedule and authorise and require them to enter in the house accused No.01 to 03 situated at Kolad and to seize and take possession of five cheques drawn on account No.20135211851 of the complainant maintained with State Bank of India, Kolad branch bearing Nos. 944529 to 944533, each of Rs. 5 Lac.

---Sd/---

( Subhash L. Phule )  
( MH RG 0009 – 2125 )

Place : Roha. Judicial Magistrate First Class, Roha,  
Date : 15.04.2017. District Raigad.