

Order below Exh. 01 in S.C.C. No.96/2022
(CNR No.MHRT080001892022)

This is a proceeding concerning an offence punishable under section 138 of Negotiable Instruments Act, 1881. The case is pending for examination of the accused as per section 313 of the Code of Criminal Procedure, 1973.

02. However, the accused is absent since 04/11/2024. Thus, for last five dates in the matter, the accused could not be examined. Today also he is absent. As per application below Exh. 56 the accused has prayed for dispensing his personal attendance and for adjournment. Said application is rejected by this Court.

03. It is noticeable that the Hon'ble Bombay High Court has held in the case of Navneet Singh Gogia and another Vs. The State of Maharashtra and another (Criminal Revision Application No. 70/2023 judgment dated 21/01/2025) that the trial of offence under section 138 of the NI Act can proceed in absence of the accused.

04. It is further noticeable that object of examination of accused under section 313 of the Code is to afford an opportunity to the accused to explain incriminating circumstances appearing in evidence against him.

05. The aforesaid facts and circumstances of the case shows that the accused is not willing to avail an opportunity to explain incriminating circumstances. The complainant cannot be punished for such attitude of the accused. In fact, the complainant cannot be forced to wait for justice unnecessarily when the

accused is delaying the proceeding. Hence, I direct that the matter shall proceed without examination of accused under section 313 of the Code and without his evidence. Thus, the matter be placed for final arguments.

Dated : 28/01/2025

(B. D. Tare)
Judicial Magistrate F. C.
Deorukh.

CERTIFICATE

order in SCC no. 96-2022

I affirm that the contents of this P.D.F. file are same, word to word, as per the original order/judgment/evidence.

Name of the Stenographer : S. A. Bhale

Court name : Civil Judge, J. D. and J.M.F.C., Deorukh.

Date : 28/01/2025

Order signed by the presiding officer on : 28/01/2025

Order uploaded on : 28/01/2025