MHST070052162024

Received on	:	08/11/2024
Registered on	:	14/11/2024
Decided on	:	15/07/2026
Duration	:	**01 08 07**
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(PART "A")

IN THE COURT OF JUDICIAL MAGISTRATE F. C., (COURT NO.04), AT– KARAD, DIST.- SATARA.

(Presided over by A.A. Utpat)

Date of the Judgment 15th July, 2026.

SUMMARY CRIMINAL CASE NO. 3651/2024. **Exhibit No.- 30.**

COMPLAINANT :-

Pratik Krushnat Chavan,
Age: 21, Occupation : Agri.
R/o. Koparde Haveli, Tal.Karad, Dist.Satara

Represented by **Ld. Adv. Shri. M. M.Mujawar.**

Versus

ACCUSED :-

Sajid Ramjan Shaikh
Age: 22, Occupation : Laborer.
R/o. Koparde Haveli, Tal.Karad, Dist.Satara

Represented by – **Ld. Adv. Shri. P. D. Patil.**

(PART "B")

Date of Offence	:	16/10/2024.
Date of the complaint	:	08/11/2024.
Date of commencement of the evidence	:	07/12/2024.

Date on which judgment is reserved	:	Nil.
Date of judgment	:	15/07/2026.
Date of the sentencing order, if any.	:	Nil.

“ACCUSED DETAILS”

Rank of accuse d	Name of accused	Date of arrest	Date of release d on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of set off
1.	Sajid Ramjan Shaikh	---	---	138 OF NI Act	Convicted	To pay compensation Rs. 3,15,000/- and in default to suffer simple imprisonment for 01 month.	-

(PART “C”)

LIST OF COMPLAINANT WITNESSES

Rank	Name	Nature of evidence
C.W.1	Pratik Krushnat Chavan	The complainant (Exh.05).

LIST OF COMPLAINANT- EXHIBITS

Sr. No.	Exhibit No.	Description.
1)	Exh.C- 07/ C.W.1	Original cheque bearing No.102742.
2)	Exh.C- 08/ C.W.1	Original cheque bearing No.102743.
3)	Exh.C- 09/ C.W.1	Copy of notice issued to accused.
4)	Exh.C- 26/ C.W.1	Cheque return memo of cheque bearing No.102742.
5)	Exh.C- 27/ C.W.1	Cheque return memo cheque bearing No.102743.
6)	Exh.C- 28/ C.W.1	Postal Receipt of registered post.
7)	Exh.C- 29/ C.W.1	Postal Track Consignment of Notice.

Evidence Close pursis filed by complainant is at Exh.24.

The accused has not examined himself or any other witness on oath as well as not filed any document.

:: J U D G M E N T ::

(Delivered on 15th day of July, 2026.)

01. The accused is tried for the offence punishable under section 138 of the Negotiable Instruments Act, 1881.

02. The complainant's case in brief as; the complainant and accused are permanently residing at the same village namely Koparde Haveli, Tal. Karad, Dist. Satara. Therefore, the complainant knows the accused. Friendly relations are developed between them. The accused was in dire need of money for business purpose as well as for religious rituals when his grandfather was admitted to the hospital and after his death, the accused had demanded a certain amount from the complainant from time to time. The complainant, considering relationship and trust has given the accused total amount of Rs.2,45,000/- specifically mentioned in the complaint as a hand loan. Out of said amount the accused had repaid amount of Rs.32,000/- to the complainant and assured for payment of remaining amount within a month. Accordingly, the complainant asked for repayment of said remaining amount, the accused has issued cheque of Rs. 01,30,000/- bearing No. 102742 and cheque of Rs. 80,000/- bearing No. 102743 dated 05/09/2024 of Bank of India, Branch Goware, Tal. Karad, Dist. Satara. The complainant has deposited said cheques in the Bank of Baroda, branch Karad. On 07/09/2024, both the cheque were dishonored and returned back with endorsement that "Funds insufficient". Therefore, on 30/09/2024 the complainant has issued demand notice to the accused through his learned advocate. The notice was duly served to the accused on 01/10/2024. However, the accused failed make payment of cheque amount. Therefore, this complainant.

03. Accordingly, after taking cognizance of the offence, process was issued against the accused, for the offence punishable under section-138 of the Negotiable Instruments Act, 1881.

04. Plea of the accused is recorded at Exh. 16 dated 29/03/2025. The accused has pleaded not guilty and claimed to be tried.

05. The record shows that the accused is absent since long. It also becomes clear that inspite re-issuance of non-bailable warrants repeatedly, the accused has been avoiding execution of the warrant for appearance before the Court. Considering ratio laid down in the judgment of Hon'ble High Court of Bombay in case of ***Navneet Singh Gogia Vs. State of Maharashtra, Criminal Revision Application no. 70/2023, decided on 21/01/2025,*** statement of the accused as per Section 351 of the B.N.S.S is dispensed with and also evidence of the accused is closed as per directions in the action plan provided by the Hon'ble Supreme Court regarding expeditious disposal of such cases.

06. Heard learned advocate Mr. M. M. Mujawar for the complainant and no argument on behalf of the accused as he and his learned advocate are absent. Considering, long pendency of the matter and directions of the Hon'ble Apex Court regarding action plan, proceed to pass judgment without argument of the accused.

07. Considering the facts of the case and evidence on the record, following points arise for my determination on which I have given my findings thereon with reasons below;

NO.	POINTS		FINDINGS
1)	Whether the complainant proves that, the accused issued said cheque of Rs. 01,30,000/- bearing No. 102742 and cheque of Rs. 80,000/- bearing No. 102743 dated	:	**Yes.**

	05/09/2024, in his favour for payment of legally recoverable debt and the same is dishonored ?		
2)	Whether the accused has rebutted the presumptions provided under Section-118 and 139 of the Negotiable Instruments Act ?	:	**No.**
3)	What order ?	:	**Accused is convicted ...**

R E A S O N S

As to point No. 01 :-

08. In order to prove the allegations in the complaint, the complainant has adduced oral evidence by filing affidavit of examination in chief as a C.W.1 at Exh.5 and solemnly affirmed contents of the complaint, which is the replica of the complaint at Exh.01. It is contention that, the complainant and accused are permanently residing at the same village namely Koparde Haveli, Tal. Karad, Dist. Satara. Therefore, the complainant knows the accused. Friendly relations are developed between them. The accused was in dire need of money for business purpose as well as for religious rituals when his grandfather was admitted to the hospital and after his death, the accused had demanded a certain amount from the complainant from time to time. The complainant, considering relationship and trust has given the accused total amount of Rs.2,45,000/- specifically mentioned in the complaint as a hand loan. Out of said amount the accused had repaid amount of Rs.32,000/- to the complainant and assured for payment of remaining amount within a month. Accordingly, complainant asked for repayment of amount, the accused has issued cheque of Rs. 01,30,000/- bearing No. 102742 and cheque of Rs. 80,000/- bearing No. 102743 dated 05/09/2024 of Bank of India, Branch Goware, Tal. Karad, Dist. Satara. The complainant has deposited said cheques in the Bank of Baroda, branch Karad. On 07/09/2024, the cheques were dishonored and returned back with endorsement that “Funds insufficient”. Therefore, on

30/09/2024 the complainant has issued demand notice to the accused through his learned advocate. The notice was duly served to the accused on 01/10/2024. However, the accused failed make payment of cheque amount.

09. After perusal of original cheques at Exh. 7 and Exh.8, it becomes clear that, those are in the name of the complainant and of account No. 132210110007063. Cheque bearing No. 102742 is of Rs.01,30,000/- and cheque bearing no. 102743 is of Rs.80,000/- dated 05/09/2024, of the Bank of India, branch Goware, Tal. Karad, Dist. Satara. After perusal of original cheque return memos of the Bank of Baroda at Exh.26 and Exh. 27, it becomes clear that said cheques are dishonored due to "Funds Insufficient" at bank account of the accused.

10. The Negotiable Instruments Act-1881, Section-146 is as;
"Bank's slip prima-facie evidence of certain facts. - The Court shall, in respect of every proceeding under this Chapter, on production of Bank's slip or memo having thereon the official mark denoting that the cheque has been dishonoured, presume the fact of dishonour of such cheque, unless and until such fact is disproved."

11. Considering above provision with facts of the case in hand, it becomes clear that, the complainant has filed the original cheque return memos of the Bank of India at Exh.26 and 27. Said memos bear name of the concerned bank, cheque numbers, amount of cheques, reason for return with remark that, this is a computer generated memo, hence require no signature. The accused has not adduced evidence to disprove said presumption. Therefore, it becomes clear that, said cheques in the name of complainant are dishonored due to "Funds Insufficient" at account of the accused.

12. The complainant has deposed that, on 30/09/2024 the complainant has issued demand notice to the accused through his learned

advocate. It bears name and address of the accused mentioned in the complaint. The complainant has filed postal track consignment status from the website of Indian Post. It bears number of said registered post shown in the receipt Exh.28 as well as delivery status and date with address. It is printout from official website of the Indian Post. Said status is updated by the employee of the post while discharging his official function. Therefore, the same is relavent and no reason to disbelieve said status i.e. track consignment. Therefore, it becomes clear that the notice was duly served to the accused on 01/10/2024. However, the accused failed make payment of cheque amount.

13. After perusal of the office copy of legal notice at Exh.9 it becomes clear that, it was sent by the complainant through his learned advocate to the accused at the address mentioned in the complaint. It bears signature of the complainant as well as his learned advocate. It is of dated 30/09/2024. It becomes clear that, it bears the same name and address of the accused mentioned in the complaint.

14. The General Clauses Act-1897, Section-27 is as;

"Meaning of service by post- Where any (Central Act) or Regulation made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression serve or either of the expressions give or send or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post."

15. Considering above provision with facts of the case in hand, it becomes clear that, the complainant had sent notice to the accused on the

same address as mentioned in the complaint itself. The accused has not adduced evidence to disprove said presumption. Therefore, it becomes clear that said statutory notice dated 30/09/2024 sent by the complainant through his learned advocate, it was duly served to the accused on 01/10/2024.

16. In order to constitute an offence, punishable under section-138 of the Act, there is proviso that, (a) cheque has to be presented to the bank within its validity, (b) the payee or holder of the cheque has to make demand for payment by written notice within thirty days from receipt of information from the bank regarding return of cheque, and (c) the drawer of cheque fails to make payment within fifteen days from receipt of said notice.

17. Considering the complaint and evidence on the record, it becomes clear that, said cheque bearing no. 102742 is of Rs.01,30,000/- and cheque bearing no. 102743 is of Rs.80,000/- dated 05/09/2024, of the Bank of India, branch Goware, Tal. Karad, Dist. Satara i.e. within its validity. The complainant received memos of Bank of Baroda on 07/09/2024 and sent the statutory notice dated 30/09/2024 i.e. within thirty days from receipt of memo. Due to failure of the accused to make payment within fifteen days from service of said notice, present case is filed on 08/11/2024. It makes clear that, the complainant has complied with requisite conditions within prescribed period of limitation, before initiating this proceeding.

18. The complainant has to prove his case. It is case of the complainant that for repayment of said hand loan amount, the accused has issued cheques in dispute. In support of contentions in the complaint, the complainant has produced original cheques on the record at Exh.07 and 08. Further more demand notice is not replied by the accused. There are memos issued by the employee of concerned bank in official capacity. Therefore, no reason to disbelieve said documents filed on the record. After considering

said documents as well as oral evidence of the complainant, it becomes clear that contentions of the complainant about theory of repayment of hand loan amount is well supported by the documentary evidence. Further, the bank memo shows that said cheques are dishonored due to “Funds Insufficient” at the account of drawer i.e. the accused.

19. It is pertinent to note that, since filing of the complaint the complainant has taken much more efforts to secure presence of the accused before the Court for trial. But the accused is avoiding execution of warrants. Further, complainant has adduced oral evidence by filing affidavit by entering into the witness box. Said evidence is unchallenged. On the other hand, the accused has not adduced any evidence.

20. In the present case theory of the complainant about repayment of amount of hand loan is well supported by documents on the record.

21. As discussed above, considering documentary as well as oral evidence on the record, I come to the conclusion that, said cheques are issued by the accused for repayment of amount of hand loan. Hence, I have given finding to the point No.1 in the affirmative.

As to point No. 02 :-

22. The Negotiable Instruments Act-1881, Section- 118 provides for presumption as to negotiable instruments. Section- 139 provides for presumption in favour of the holder of instruments. Section- 138 provides for presumption about commission of offence in case of dishonor of cheque. It is settled position of law that, the complainant has to prove that cheques in dispute are issued by the accused and it is dishonored. Once the complainant proves that cheques in dispute are issued by the accused then said cheques carries statutory presumption under sections-118 and 139. Thereafter, burden to rebut said presumption lies on the accused.

23. In the present case, the notice was duly served to the accused on 01/10/2024, but he failed to repayment of hand loan. Said registered post tracking status from website is at Exh.29. Concerned employee of the post office has updated said status on the website. Concerned employee of the post office has mentioned the same while discharging official duty. Therefore, the same is relevant fact. No reason to disbelieve the same. The accused has not sent any reply to said notice. Further, the complainant has taken efforts for execution of warrant against the accused. But the accused tried to avoid execution of warrant. This conduct of accused is sufficient to draw adverse inference against him. Further, the accused has failed to appear and raise probable defence. On the other hand, the complainant has adduced cogent and documentary evidence. Contentions of the complainant are supported by the bank documents. Said bank documents have statutory presumptions. Said presumptions are not rebutted by the accused with support of reliable evidence.

24. Therefore, as discussed above, I come to the conclusion that, the accused has failed to rebut said presumption by adducing reliable evidence. Hence, I have given finding to the point No.2 in the negative.

As to point No. 03 :-

25. As discussed above, I come to the conclusion that, the complainant has proved the case against the accused. It is necessary to hear the accused on the point of the sentence. The record shows that case is about 01 years and 08 months old. There are directions issued by the Hon'ble Apex Court regarding action plan. In ***Navneet Singh Gogia and anr. Vs State of Maharashtra and anr.,*** the Hon'ble High Court of Bombay has held that "*In nutshell if the proceeding under Section 138 of the Negotiable Instruments Act are quasi-criminal in nature, there is reason to believe that one of attribute of criminal trial about mandatory recording of statement under Section 313 of the Criminal Procedure Code is not applicable. So in*

given set of facts narrated here-in-above, the accused cannot make complaint about causing prejudice if evidence is adduced in his absence and he cannot make complaint of non recording of the statement under Section 313 of the Criminal Procedure Code if they have remained absent without justification. In a given case and after ascertaining certain factors, the Magistrate is justified in proceeding further in absence of accused and even dispense his statement." In the present case record shows that due to absence of the accused order passed below Exh.01 dated 13/07/2026 and dispensed with statement of the accused under Section 351 of the B.N.S.S. Said provision entitles the accused to explain circumstances for commission of the offence and to put his defence if any. Furthermore, hearing of accused on statement also entitles the accused for relief about the statement. However, in the present matter conduct of the accused shows that he is remaining absent in order to prolong the matter and he does not want to avail said provisions. Therefore, with all due respect said case law is helpful to the complainant. Hence, I proceed further without hearing of the accused on the point of sentence.

26. The sentence provided for the offence punishable under Section-138 of the Act is an imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of cheque or with both.

27. Considering the nature of the offence as it is economic one and conduct of the accused as he remained absent for trial since 2025, he is not entitled to benefit of the Probation of offender Act. Furthermore, main object of the Act is not to penalise but to benefit the complainant. In the present case amount of cheques is Rs. 01,30,000/- and Rs.80,000. Case is pending for about 1 year 8 months. Considering, said long period it is just to fix amount of compensation one and a half times to the cheques amount.

Therefore, it is just to fix amount of compensation Rs. 3,15,000/- (Rupees Three Lakhs Fifteen Thousand Only). Hence, I pass the following order;-

<u>O R D E R</u>

(1) The accused is convicted for the offence punishable under Section- 138 of the Negotiable Instruments Act-1881, vide Section- 278(2) r/w 356 of the Bharatiya Nagarik Suraksha Sanhita and sentenced to pay compensation of Rs. 3,15,000/- (Rupees Three Lakhs Fifteen Thousand Only) to be deposited on or before 60 days from today and in default to suffer simple imprisonment for a period of 01 month.

(2) The accused to surrender his bail bonds.

(3) After depositing said compensation amount, said total amount shall be given to the complainant as a compensation under Section- 395 of the Bharatiya Nagarik Suraksha Sanhita.

(4) As per Section-481 of the Bharatiya Nagarik Suraksha Sanhita, the accused shall execute bail bond with surety of Rs. 15,000/-, for further six months.

(5) Copy of the judgment be given to the accused forthwith, free of costs.

(6) In case of failure of accused to comply this order within mentioned period, then concerned clerk shall issue conviction warrant for execution of the sentence.

(Pronounced in open Court)

DISTRICT COURTS MAHARASHTRA

Digitally signed by UTPAT ATUL ARUN
Date: 2026.07.15 17:09:45 +0530

(A. A. Utpat)
Judicial Magistrate F.C.,
(Court No.4), Karad,
Dist.- Satara.

Date :- 15/07/2026.