	Sum. Cri. Case No. 250/2024 **CNR No.MHYA210003812024** **Along With Exh.01**

ORDER BELOW EXH. 1

1) Complainant had filed the present case on 22/12/2023 under section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred as the **N.I. Act** for sake of brevity) against the accused no.1 and 2 for the dishonor of the cheque bearing no. 000041 dated 01/11/2023 for an amount of Rs.59,092/-. Present case is listed for issue process order.

2) It is the case of complainant that, accused no.1 & 2 are the members of complainant society. Accused no.1 obtained the loan of Rs.35,000/- from complainant society. Accused no.2 is the son of accused no.1. After accepting the said loan, accused no.1 failed to repay the said loan. As on 01/11/2023, an amount of Rs.59,092/- was due from accused no.1 out of the said loan. On 01/11/2023 accused no.1 & 2 approached the office of complainant. They accepted their liability towards the said loan. In order to repay the said loan amount, accused no.2 on behalf of accused no.1 issued above cheque drawn on HDFC, Branch Raipur (Chattisgarh) in favour of complainant in discharge of liability.

3) It is the further case of complainant that, complainant presented said cheque for encashment. However, the said cheque returned dishonored with the reasons “Account blocked” on 02/11/2023. Thereafter, complainant issued notice to accused no.1 & 2 on 13/11/2023. Accused no.1 & 2 received the said notice on 14/11/2023. Inspite of receipt said notice, accused no.1 & 2 did not paid the amount mentioned in the cheque. Thus, complainant instituted present complaint against accused no.1 & 2. Complainant prayed to issue process against accused no.1 & 2.

4) Perused the complaint and verified the statement of complainant on oath recorded under Section 200 of Code of Criminal Procedure, 1973. The complaint and verified statement runs together. The formal acquisitions of dishonor of cheque is supported by original copy viz. cheque, cheque return memo, office

copy of notice, postal receipt, acknowledgments and bank statement of complainant. Advocate for complainant prayed to issue process against both the accused as cheque was issued in pursuance of payment of loan amount of which accused no.1 is the one who has taken the loan.

5) As per the bank memo, the subject matter cheque was dishonored on 02/11/2023 by the reasons "Account blocked". The demand notice was issued on 13/11/2023 which was served to accused no.1 & 2 on 14/11/2023. In-spite of service of said notice, accused no.1 & 2 failed to pay the amount demanded in the said notice to the complainant. The cause of action to file the present complaint arose on 29/11/2023. Complainant filed the present complaint on 22/12/2023. According to me, the complaint is filed well within limitation.

6) According to complainant, the subject matter cheque was negotiated by accused no.2 for himself and accused no.1 in discharge of legally enforceable debt in pursuance of the said loan. Complainant therefore prayed to issue process against both the accused persons.

7) As stated above, the subject matter cheque was issued by accused no.2 in furtherance of payment of loan amount. The said cheque neither bears signature of accused no.1 nor it is drawn in the bank account which is jointly maintained by accused no.1 & 2. Therefore, where prima facie accused no.2 after accepting his liability negotiated the subject matter cheque, it will be just legal and proper to issue process against accused no.2 only. Thus, I am of the view that, complainant has made out prima-facie case for the offense punishable u/s. 138 of Negotiable Instruments Act against accused no. 2. Hence, I proceed to pass following order:

ORDER

1 Issue process against the accused no.2 Mr. Rahul Vijayrao Potdukhe vide Section 204 of Code of Criminal Procedure, 1973 for the offense punishable U/s. 138 of Negotiable Instruments Act R/o.**09/09/2024.**

SAMEER KADER SHAIKH Digitally signed by SAMEER KADER SHAIKH Date: 2024.08.07 17:16:07 +0530

Wani
07/08/2024

(S. K. Shaikh)
Judicial Magistrage F.C.
Wani.