

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
CRIMINAL APPELLATE JURISDICTION.**

Criminal Writ Petition No.55 Of 2015.

Sarvendrasingh Rathore.

Versus

Pravir Choubey & Ors.

Appearance =>

Mr. Ranbir Chhabada, Advocate for the Petitioner.

Mr. R.V. Gore, Advocate Advocate for the Respondent No.1.

CORAM : V.M. DESHPANDE, J.

DATE : 3rd MARCH, 2015.

P.C. :-

By this Petition, the petitioner is challenging the order dated 27th August, 2014 passed by the learned Judicial Magistrate, F.C., Court No.19 Aurangabad in Summary Criminal Case No.796 Of 2013 whereby, the learned Magistrate rejected application Exhibit – 89. Prayer was made in the said application for sending the disputed cheque to the Handwriting Expert since the petitioner has disputed the very factum of his signature, apart from writing made on the said negotiable instrument.

[2] After hearing the learned counsel for the petitioner – accused and Respondent No.1 – complainant, Mr. R.V. Gore, learned counsel for respondent No.1 submitted that the complainant has no objection if disputed cheque is sent to Handwriting Expert however, he states that the entire exercise should be done within a stipulated period. In that view of the matter, this court is not deciding the matter on its own merit and and in so

far as correctness or otherwise of the order passed below application Exhibit – 89.

[3] The learned counsel for the petitioner has submitted that, the petitioner is present before the court and today itself the matter is fixed before the learned Magistrate. In view of the submission made by the learned counsel for the Respondents – original Complainant, following order is passed :-

ORDER

(I) The petitioner shall attend the court of the Judicial Magistrate, F.C., Court No.19th Aurangabad, today itself.

(II) That, the petitioner today itself shall give his specimen handwriting and also specimen of his signature to the learned Magistrate.

(III) Upon receipt of specimen handwriting of the petitioner and his specimen signature, the learned Magistrate is directed to send the said specimen handwriting, specimen signature and disputed cheque alongwith photostat copy of Vakalatnama filed on behalf of the petitioner before the trial court and also copy of partnership deed, which is available on record, to the Government Handwriting Expert, Aurangabad, within a period of eight days, from today. The costs for this exercise shall be borne by the Petitioner.

(IV) The learned Magistrate shall ensure that the report of Handwriting Expert is received with the Magistrate within a period of one month from receipt of specimen handwriting, specimen signature and documents mentioned above alongwith disputed cheque, to Handwriting Expert.

(V) Till receipt of report from the Handwriting Expert, trial should not proceed.

(VI) It is made clear that, if it is found that the petitioner is using any dilatory method or prolonging aforesaid exercise, the liberty is given to the complainant to move to this court, for seeking appropriate direction.

(VII) With this Writ Petition is disposed of.

(VIII) Parties to act upon authenticated copy of this order.

(V.M. DESHPANDE, J.)