

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 778 OF 2012

Mariba S/o Eknath Adhav

Age : 60 Yrs., Occ. Pensioner

& Agriculture, R/o : Rashin,

Tal. Karjat, Dist. Ahmednagar.

.... PETITIONER

V E R S U S

Sahebrao Ganpat Torade

Age : 48 Yrs., Occ. Agriculture,

R/o : Gargaon, Tal. Shrigonda,

Dist. Ahmednagar.

.... RESPONDENT

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Mr. N.V.Gaware, Advocate for Petitioner.

Mr. N.C.Garud, Advocate for Respondent.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 30th JULY, 2015

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ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith. Heard finally by the consent of the learned counsel for the parties.

2. Heard Mr. N.V.Gaware, learned Counsel for the petitioner and Mr. N.C.Garud, learned counsel for the respondent.

3. Petitioner is the original complainant. Proceedings for the offence punishable u/s 138 of the Negotiable Instruments Act are filed before the learned Judicial Magistrate First Class, Karjat. Said proceeding is registered as S.T.C. No. 49/2007. Along with the complaint, complainant/petitioner submitted list of witnesses. Complainant also entered into witness box. After his evidence was over, petitioner filed application [Exh.98]. By the said application, petitioner prayed to examine Mr. A.R.Salve, Advocate of Thane district as his witness. Learned Judge of the Court below vide Order dated 04/08/2012 rejected the said application. Hence, the present Criminal Writ Petition.

4. After hearing both the learned counsel, it is clear that the evidence of the petitioner/complainant is already over and in his evidence there is no reference of Mr. A.R.Salve, Advocate. Further, name of this witness is also not

given in the list which was filed along with the complaint. According to the petitioner, this witness is an eye witness. If this witness was really an eye witness, then mentioning of the name of this witness should not be missed in the evidence of the complainant. This aspect is properly considered by the learned Judge of the Court below. There is no material irregularity committed by the learned trial Court warranting invocation of extra ordinary writ jurisdiction of this Court.

5. Hence, present Criminal Writ Petition is dismissed.

6. Rule is discharged.

[V.M.DESHPANDE, J.]