

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

**CRIMINAL WRIT PETITION NO. 1489 OF 2014**

Ajmal Khan Kale Khan Pathan  
Age 60 years, Occu-Business  
R/o Pathan Wada, Bhadgaon  
Tq. Bhadgaon, Dist.Jalgaon

.. PETITIONER

Versus

Shivdas Rajdhar Bagul  
Age 42 years, Occu-Agricultural  
R/o Bhadgaon. Tq. Bhadgaon  
Dist.Jalgaon.

.. RESPONDENT

...

Shri S.P.Tiwari,Advocate for petitioner  
Shri V.B.Jadhav,Adv. for respondent

...

**CORAM : V.M.DESHPANDE,J.  
DATED : 20TH JULY, 2015**

**ORAL JUDGMENT :-**

Rule. Rule made returnable forthwith. Heard finally with consent of parties.

2] The petitioner faces a complaint u/s 138 of Negotiable Instruments Act. The same was registered as S.C.C.No.616/06. In the complaint, it was a specific case of the complainant/respondent that one Ramesh Bhadane witnessed the transaction. The complainant entered into the witness box. After completion of the trial, the learned trial Court vide judgment dated 14/2/2007 found that

the present petitioner has committed an offence punishable u/s 138 of the Negotiable Instruments Act and therefore, he directed that the petitioner shall suffer simple imprisonment of two months and to pay fine of Rs.2000/-.

3] Feeling aggrieved thereby, the petitioner preferred statutory appeal before the Sessions Judge, Jalgaon. The said appeal is registered as Criminal Appeal No.22/2007. During pendency of the said application Exh.11 was moved by petitioner praying for permitting petitioner to examine Ramesh Bhadane as his witness. The said prayer was turned down by learned Additional Sessions Judge, Jalgaon vide order dated 20/11/2014, hence this petition.

4] After the evidence of the complainant was over, the statement of the petitioner u/s 313 of Cr.P.C. was recorded. In that a specific question was put to the petitioner as to whether he wants to examine any person as a witness. To that, he submitted his answer in affirmative. Application Exh.24 was moved by petitioner and thereafter, the present petitioner entered into witness box, he was thoroughly cross examined by respondent/complainant. Though thereafter, it was available for the petitioner to examine Ramesh Bhadane, for the reasons best known to him, said witness was not examined.

5] From the aforesaid, it is clear that opportunity was granted to the petitioner to examine either himself or any other witness in support of his case. The petitioner has availed that opportunity, entered into witness box, however, he chose not to examine Ramesh Bhadane as his witness.

6] The law always extends helping hand to the diligent litigant and

not the person like the present petitioner. From the aforesaid, it is crystal clear that the petitioner wants to protract the hearing of the criminal appeal in which he is released on bail by the appellate Court. In that view of the matter, Writ Petition is dismissed. Rule discharged. No costs.

**(V.M.DESHPANDE,J.)**

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