

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.666 OF 2015**

Sainath Constructions and
Infrastructures Pvt. Ltd.

..Petitioner.

versus

Pooja Umesh Deshmukh and another

..Respondents.

.....

Mr. Dnyaneshwar Deshmukh for the Petitioner.

Mrs. S.D. Shinde, Addl. P.P. for the State – Respondent No.2.

.....

CORAM : A.S. GADKARI, J.

16th July 2015.

P.C. :

This is a Petition filed by the original accused, challenging the judgment and order dated 17th June, 2014 passed by the learned Additional Sessions Judge, Satara confirming the order dated 7th January, 2014 passed below Exhibit 34, by the learned J.M.F.C., Satara in SCC No.1516 of 2011.

2. Heard Mr. Dnyaneshwar Deshmukh, learned counsel for the Petitioner at length and also perused the record made available before me by the Petitioner.

3. As per the record Respondent No.1 has instituted proceedings against the Petitioner under Section 138 of the Negotiable Instruments Act. The said case is filed on 5th November, 2011. The Petitioner moved an application below Exhibit 34 thereby praying that the

instrument i.e. the cheque in question be sent to the handwriting expert, as it is the contention of the Petitioner that the said instrument was deposited with the complainant as a security and the column of date was kept blank. It is further the contention of the Petitioner that as the said instrument was kept as security with the original complainant, it was mutually agreed and decided between the parties that the column of date be kept blank. In the premise, the said application below Exhibit 34 was filed by the accused with a prayer that the said instrument be sent to the handwriting expert to verify, if there is any difference in the ink and for knowing the age of the ink. The learned Trial Court by its order dated 7th January, 2014 rejected the said application below Exhibit 34. The Revisional Court by the impugned order dated 17th June, 2014 while rejecting the revision has confirmed the order passed by the Trial Court.

4. It is to be noted here that, it is not the case of the accused that he deposited the said cheque with the complainant which was not signed by him or the particulars therein were not filled. It is the only contention of the Petitioner that the column of the date was kept blank. It appears to me that the Petitioner by filing the said application wants to protract the trial. In the present case, in the absence of any pleadings to the effect that the signature on the cheque and the writing in the other columns is forged, I find that, it is not necessary to send the said cheque to the handwriting expert for

verification of the age of the ink and/or the difference of the ink. According to me the Application below Exhibit 34 is fully misconceived and both the Courts below have not committed any error while passing the impugned orders herein.

In the circumstances, I find no merit in the Petition and the Petition is dismissed accordingly.

(A.S. Gadkari, J.)