IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1989 OF 2015

Faaiz Anwar Qureshi ...Petitioner

Versus

Usman Raza Fatmi & Anr. ...Respondents

WITH

CRIMINAL WRIT PETITION 1990 OF 2015

Faaiz Anwar Qureshi ...Petitioner

Versus

Mrs. Manshi Shah & Anr. ...Respondents

WITH

CRIMINAL WRIT PETITION NO.1991 OF 2015

Faaiz Anwar Qureshi ...Petitioner

Versus

Kamlesh Murji Variya & Anr. ...Respondents

WITH

CRIMINAL WRIT PETITION NO.1992 OF 2015

Faaiz Anwar Qureshi ...Petitioner

Versus

Mrs. Devika Shah & Anr. ...Respondents

Mr. Vikas K. Singh i/b Mr. Ravi Dwivedi for the Petitioner.
Mr. P.A. Sarwankar and Mr. S.K. Dubey for Respondents No.1
Ms G.P. Mulekar, APP for Respondent No.2-State.

CORAM:-M.L. TAHALIYANI, J.

DATED :3rd JULY, 2015.

P.C.

Admit. Heard finally.

2. The writ petitions impugn the order passed by the Additional Sessions Judge, rejecting the revision application of Petitioner. The Petitioner is the complainant in four complaint cases filed against Respondent No.1 for the offences of forgery and other allied offences. The Petitioner had made an application in all the four cases for asking Respondent No.1 to give their specimen handwriting for being compared with the handwriting on the cheques in question. The applications have been rejected by the Magistrate. The revision applications also have been rejected.

3. At this stage it may be mentioned here that the complainant/Petitioner himself is facing trial for the offence punishable under section 138 of the Negotiable Instruments Act at the instance of Respondent No.1 in all the petitions.

4. The Petitioner alleges that Respondent No.1 had misused the cheques kept with them by the Petitioner. It is submitted before

me that the handwriting on the cheques need to be examined to determine as to whether the cheques were filled in by Respondent No.1 or the Petitioner.

4. Without going into the merits of the case and the correctness or otherwise of the order of the Magistrate or Sessions Court what is noted is that application is made under section 311-A of the Criminal Procedure Code. Section 311-A runs as under :

> **"311-A. Power of Magistrate to order person to give specimen signatures or handwriting** - If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting :
>
> Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding. "

5. As such, provisions of section 311-A are applicable to the persons who had at some time been arrested in connection with the

investigation or proceedings in which his handwriting needs to be examined. In the present case neither the Petitioner nor Respondent No.1 was in custody in connection with the proceedings pending before the Magistrate. Therefore, section 311-A had no application in the circumstances of the case. The application itself was misconceived.

6. This issue has been examined by the learned Magistrate in the last para of his order while rejecting the prayer.

7. In view of what has been stated by me hereinabove no relief can be granted in the present petitions. Writ petitions need to be dismissed. However, the Petitioner is at liberty to make appropriate application before the Magistrate with specific kind of relief which he wants in the matter.

8. All the four writ petitions are dismissed.

(JUDGE)