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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3466 OF 2014

Shri Bhausaheb Thombre

..Petitioner

Vs.

Trimurti Nagari Sahakari Patasanstha
Maryadit & Anr.

..Respondents.

Mr. Pramod Gokul Kathane for Petitioner.
Mr. Vinod Sangvikar for Respondent No.1.
Mrs. Sangeeta D. Shinde, APP for Respondent No.2-State.

CORAM: A.S. GADKARI, J.

DATE : 15th July 2015.

P.C.

Heard learned Counsel for the parties.

2 By the present petition, the petitioner has challenged the order dated 17.7.2014 below Exhibit 23 in S.C. Case No.615 of 2008. By the said impugned order, the Trial Court has rejected the Application filed by the petitioner, the original accused, thereby praying that the cheque in question be referred to the hand-writing expert.

3 The record discloses that the respondent no.1-society has

instituted proceedings against the present petitioner under Section 138 of Negotiable Instruments Act. The said complaint is filed on 2.6.2008. That on 21.1.2013, the examination-in-chief of the complainant was recorded. The cross-examination of the complainant was completed on 12.3.2013. The present petitioner filed an Application for referring the alleged disputed document i.e. cheque in question to the hand-writing expert which is Exhibit 23 dated 16.4.2013. It is the contention of the learned Counsel for the petitioner that at the time of availing loan facility from the respondent no.1, he gave blank cheque i.e. “without writing any amount and name of the complainant” as security deposit with the respondent no.1-society.

4 It is to be noted here that during the period of about five years from the date of filing of the complaint dated 2.6.2008 till the date of examination-in-chief of the complainant i.e. 21.1.2013, the petitioner did not move any Application in the Trial Court for sending disputed document i.e. cheque to the hand-writing expert and it is after the cross-examination of the complainant is over i.e. on 16.4.2013 the said Application was filed.

5 The Trial Court by its order dated 17.7.2014 rejected the said Application by observing that the petitioner by way of filing such an application is protracting the trial. The learned Trial Court after taking into

consideration various authorities cited by the petitioner herein, rejected the Application below Exhibit 23.

6 I have perused the entire record produced before me. It is to be noted here that the petitioner has nowhere denied his signature appearing on the instrument i.e. cheque in question. As a matter of fact, the learned Counsel for the petitioner during the course of arguments has admitted that he had deposited the “blank” cheque with the respondent no.1 which was duly signed by him. The learned Counsel for the petitioner submitted that the “blank cheque” means the petitioner did not write the name of the complainant and also amount mentioned therein while depositing the same with the complainant.

7 As stated hereinabove, the complaint was filed on 2.6.2008 and as per Roznama annexed to the petition, it appears that with a view to protract the trial the petitioner has filed the said Application below Exhibit 23. As the petitioner has admitted his signature on the cheque, it is not necessary in the present case to send it for the opinion of the hand-writing expert. I further find that the finding recorded by the Trial Court is just and proper and needs no interference at the hands of this Court. I find no infirmity in the order dated 17th July 2011 passed by the Trial Court either in law or on facts.

8 In that view of the matter, the writ petition deserves to be dismissed and is accordingly dismissed with no order as to costs.

(A.S. GADKARI,J.)