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

CRIMINAL WRIT PETITION NO.772 OF 2015

Sandeep s/o Khushalchand Mahajan ..PETITIONER

VERSUS

Rajesh s/o Pusaram Agrawal & anr. ..RESPONDENTS

Mr A.S. Barlota, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 3rd May, 2016

ORAL ORDER :

Heard Mr Barlota, learned Counsel appearing on behalf of the petitioner-accused.

2. In a prosecution under section 138 of the Negotiable Instruments Act, an order is passed by the Magistrate permitting respondent no.1 – complainant to lead secondary evidence. He objects the order on the ground that same would adversely hamper the defence of the accused, as certain important aspects as regards difference in ink and hand-writing could not be gone into by the Court.

3. In the background of presumptions provided under the Negotiable Instruments Act and the fact that the accused has every right to raise

(2)

defence, which is required to be evaluated by the Magistrate at appropriate time, in my opinion, it will be premature to comment anything. Suffice it to say in the above referred background, that no illegality could be noticed in the impugned order, warranting interference in the extraordinary jurisdiction.

4. In view thereof, Criminal Writ Petition fails and stands rejected.

(N.W. SAMBRE, J.)

amj