

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.4884 OF 2015

1. Madhukar Shankar Sutar .Petitioners
2. Suvarna Madhukar Sutar
3. Balasaheb Shankar Sutar

Vs.

The State of Maharashtra .Respondent

Mr.Milind Deshmukh, Advocate, for the
Petitioners

Mr.S.R.Agarkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 26.09.2016

P.C.

. Heard learned counsel for the
Petitioners & the learned APP for the Respondent
– State.

2. By this Petition, the Petitioners have
impugned the order dated 08.10.2015 passed by
the learned Additional Sessions Judge, Solapur
in Cri.Revn.Appln.No.33 of 2015, as well as the
order dated 18.02.2015 passed by the learned

Judicial Magistrate F.C., Madha, Solapur, by which their Application (Exh.365) for sending Exh.210 to the handwriting expert came to be rejected.

3. Learned counsel for the Petitioners states that in the Application, being Exh.365 filed in the trial Court, the Petitioners had prayed that certain documents, including document which is at Exh.210 be sent to the handwriting expert, for verifying the thumb impression on the Sale Deed. He submitted that the said document i.e. at Exh.210 is crucial and hence, in the interest of justice, the said document be sent to the handwriting expert.

4. Perused the papers. It appears that the Petitioners had filed an Application, being Exh.365 in RCC No.72 of 1994 praying therein, that the documents referred to in the Application be sent to the handwriting expert.

The said Application, being Exh.365 was rejected by the learned Judicial Magistrate F.C., Madha, District – Solapur vide order dated 18.02.2015. The said order was challenged in Revision by the Petitioners by filing Cri.Revn.Appln.No.33 of 2015 in the Court of the learned Additional Sessions Judge, Solapur. The learned Additional Sessions Judge vide Judgment & Order dated 08.10.2015 was pleased to dismiss the said Application.

5. Admittedly, the complaint filed under Section 138 of the Negotiable Instruments Act, was filed in 1994. It is not in dispute, that the trial Court was pleased to refer the documents, being Exhs.86, 87, 163, 190 & 210 to the handwriting expert, on an Application filed by the Petitioners, being Exh.258, for ascertaining whether the said documents bear the Complainant's signature or not. Pursuant to the said order passed by the trial Court, the

opinion of the handwriting expert was received and the handwriting expert was also examined as a witness. The Petitioners have once again filed an Application, being Exh.365, praying therein, for sending the Sale Deed to the handwriting expert, for verifying the thumb impression on the said Sale Deed (Exh.210). Both the lower Courts have in detail considered and passed appropriate orders. There is no perversity or any infirmity in the orders passed by both the Courts. It appears that the Petitioners are trying to delay the case which is more than 25 years old, by filing Applications. There is no merit in the Petition hence, the Petition is dismissed.

6. Accordingly, the Petition is disposed of.

7. Considering that the complaint is of 1994, the trial is expedited. The trial Court

shall conclude the case as expeditiously as possible and in any event, within three months from the date of receipt of this order. Registry to forthwith communicate the said order to the concerned Court, by fax.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)