

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL WRIT PETITION NO.699 OF 2014

Ramesh Jagannath Mundada,
Aged about 50 years, Occupation – Business,
R/o Main Road, Telhara, District Akola.

.... **PETITIONER**

VERSUS

01) Lokesh Lalchand Rathi,
Aged about 40 years,
Occupation – Agriculturist,
R/o Paturda, Sangrampur, District
Buldhana.

2) State of Maharashtra,
through PSO, PS Sangrampur,
District Buldhana.

.... **RESPONDENTS**

Shri Sumit G. Joshi, Advocate for the petitioner,
Shri D.I. Jain, Advocate for the respondent No.1,
Ms. N.P. Mehta, Addl.P.P. for the respondent No.2.

CORAM : Z.A. HAQ, J.

DATED : 9th FEBRUARY, 2016.

ORAL JUDGMENT :

1. Heard Shri Sumit G. Joshi, learned Advocate for the petitioner, Shri D.I. Jain, learned Advocate for the respondent No.1 and Ms. N.P. Mehta, learned Addl.P.P. for the respondent No.2.
2. Rule. Rule made returnable forthwith.

3. The petitioner has challenged the order passed by the learned Magistrate rejecting the application (Exhibit No.69) filed by him praying that the complainant be directed to give his specimen handwriting and the specimen signature of the complainant, and his admitted signatures on complaint, vakalatnama and other documents filed on the record be referred to the Handwriting Expert. The petitioner has also challenged the order passed by the Sessions Court rejecting the revision filed by the petitioner.

3. The defence of the petitioner is that the original complainant (respondent No.1) and the petitioner were having business relations and therefore, the cheques which were signed by the petitioner, were kept with the complainant (respondent No.1). It is submitted that the other entries on the cheques are not in the handwriting of the petitioner, they are in the handwriting of the complainant (respondent No.1).

4. Considering the defence raised by the petitioner, without delving into the merits of the matter, in my opinion, the prayer made by the petitioner is required to be granted.

5. Hence, the following order :
- i) The trial Court shall refer the matter to the private Handwriting Expert to be appointed by it.
 - ii) The respondent (original complainant) shall give specimen handwriting and specimen signature alongwith documents, details of which are supplied by the petitioner which shall be referred to the Handwriting Expert for his expert opinion.
 - iii) The petitioner shall obtain the expert opinion from the Handwriting Expert within two months, failing which the learned Magistrate shall proceed with the matter without waiting for the report of the Handwriting Expert.
 - iv) The petitioner shall bear the expenses of the fees and charges payable to the Handwriting Expert.
 - v) The petition is allowed in the above terms. In the circumstances, the parties to bear their own costs.
 - vi) Record and proceedings be sent back forthwith.

JUDGE

pma