

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL WRIT PETITION NO. 1769 OF 2017**

Dilip Bagul ..Petitioner  
Versus  
M/s. Prefeb Engineering Pvt. Ltd. & Anr. ...Respondents

Mr. Abhijit S. Deshmukh for the Petitioner

Mr. Ashish Chavan for the Respondent No.1

Ms. R. M. Gadhvi, A.P.P for the Respondent No.2-State

**CORAM : REVATI MOHITE DERE, J.**  
**FRIDAY, 5<sup>th</sup> JANUARY, 2018**

**P.C. :**

1            Heard learned counsel for the parties.

2            By this petition, the petitioner has impugned the order dated 18<sup>th</sup> October, 2016 passed by the learned Magistrate, 43<sup>rd</sup> Court, Borivali, Mumbai, in C.S. No. 896/SS/2012 and the order dated 18<sup>th</sup> February, 2017 passed by the learned Sessions Judge, Dindoshi, Mumbai in Criminal Revision Application No. 297 of 2016.

3            Learned counsel for the petitioner submitted that both the lower Courts had erroneously rejected the plea of the petitioner to refer the

cheques in question to the handwriting expert, for opinion. He submitted that considering the admissions that have come in the cross-examination of respondent No.1 (complainant), it was necessary to allow the application filed by the petitioner for sending the cheques to the handwriting expert.

4            Learned counsel for the respondent No. 1 opposed the petition and submitted that no interference is warranted in the impugned orders.

5            Perused the papers as well as the impugned orders passed by both the Courts. The petitioner had filed an application in view of certain admissions that have come in the cross-examination of the respondent No. 1 and has prayed in the said application that the cheques in question be referred to the handwriting expert. The trial Court was pleased to reject the said application and that the said order has been confirmed by the revisional Court. Admittedly, the petitioner has admitted the signature on the cheques in question, however, has disputed, the contents i.e. the date and figure of the amounts in words and any numbers written on the cheques. The date as well as the name of the payee are stamped on the cheques. According to the petitioner, the said cheques were given as

security to the respondent No. 1 and that the respondent No. 1 has misused the said cheques and has written the amounts in the said cheques. According to the learned counsel for the petitioner, the amounts mentioned in the cheque are in excess of the actual legal liability of the petitioner.

6           Be that as it may, no interference is warranted in the writ jurisdiction and that the said impugned orders cannot be termed as perverse. The petition is dismissed.

7           It is made clear that all contentions of the petitioner and the respondent No. 1 are kept open, including the contention that the cheques were given as security as well as that the amount mentioned in the cheque was in excess of the legal liability of the petitioner.

8           The learned trial Court shall decide the case on its own merits uninfluenced by the observations made by the trial Court as well as the revisional Court in the impugned order.

**REVATI MOHITE DERE, J.**