

Anand

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

WRIT PETITION NO. 3831 OF 2017

Madhusudan Narshing Patange

.Petitioner

Vs.

Haribhau Bhagwan Kolekar & anr.

.Respondents

Mr. B. G. Ligade i/b. Mr. D. Patil, Advocate, for the Petitioner
Mr. V. Chate, APP, for the Respondent No. 2 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.01.2018

P.C.

. Heard learned counsel for the Petitioner.

2. By this Petition, the Petitioner has impugned the Order dated 29.03.2017 passed by the learned Judicial Magistrate First Class, Barshi, District – Solapur below Exh. 17 in Cri. Complaint No. 132 of 2015, by which the Petitioner's Application for sending the cheque to the handwriting expert came to be rejected.

3. Learned counsel for the Petitioner submitted that the Petitioner's Application (Exh. 17), for sending the cheque in question to the handwriting expert came to be rejected on the ground that no

evidence had commenced and on the ground that the Application was pre-mature. Learned counsel for the Petitioner submitted that on the very same day i. e. 29.03.2017, soon after the impugned Order was passed, the learned Judge accepted the Affidavit of evidence of the Complainant. He submitted that now, that the Affidavit of evidence of the Complainant is taken on record, the Petitioner be permitted to file a fresh Application for sending the cheque in question to the handwriting expert.

4. Perused the papers as well as the impugned Order.

5. A perusal of the impugned Order dated 29.03.2017 shows that the Application preferred by the Petitioner for sending the cheque to the handwriting expert was not rejected on merits, but only on the ground, that evidence had not commenced and that the said Application was pre-mature. Admittedly, the Complainant has tendered his Affidavit of evidence. Hence, the aforesaid Petition can be disposed of by granting liberty to the Petitioner to file a fresh Application for sending the cheque to the handwriting expert. If such an Application is filed, the learned Judge shall consider the same on its own merits uninfluenced by the earlier Order dated 29.03.2017. It is made clear, that this Petition has

not been considered on merits. All contentions of all the parties are kept open.

6. The Petition is disposed of in the aforesaid terms.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)