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

WRIT PETITION NO. 5444 OF 2017

M/s. Rajshree Steels and anotherPetitioners

V/s.

The State of Maharashtra and anotherRespondents

Mr. Ankit Rajput i/b Mr. Rajesh Jain for the petitioner.
Mr. H. H. Nagi a/w Mr. Santosh Dube for respondent no. 2.
Mr. S. S. Pednekar APP for the State.

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 13, 2018.

P.C.

Heard respective counsel. Petitioner is facing criminal prosecution in C.C. no. 5549/SS/2015 for an offence under section 138 of Negotiable Instruments Act, 1881 pending on the file of learned Metropolitan Magistrate 33rd Court, Ballard Pier, Mumbai.

2 During the course of recording of defence evidence and after statement of accused under section 313 of Code of Criminal

Procedure, 1973 was recorded, application exhibit 136 for referring the disputed cheque for opinion of hand writing expert came to be moved which is rejected by the order dated 15.11.2017. As such, this application.

3 The learned counsel for the petitioner would urge that petitioner/accused has every right to set up his defence and one of the part of his defence is by getting opinion of hand writing expert as the disputed cheque has certain scoring on the date which has direct bearing over the trial. According to him, by denying such right, the learned Magistrate has denied the opportunity of hearing to him of defending his case in the mode and manner which he intend in accordance with law.

4 *Per contra*, the learned counsel for the respondent/complainant would invite attention of this Court to the reply given by the present petitioner to the notice and statement made under section 313 of the Code of Criminal Procedure, 1973. According to him, order impugned does not warrant any

interference.

5 Perusal of the statement of the accused under section 313 of the Code of Criminal Procedure, 1973 depicts that issuance of cheque was admitted by him and there is no whisper about tampering of the same. The fact remains that the trial has reached at the conclusion stage wherein application exhibit 136 is moved. Having regard to the reply given by the petitioner/accused to the statutory notice and his statement under section 313 of Code of Criminal Procedure, 1973, I hardly notice that any interference is warranted in the order.

6 Writ petition stands dismissed.

[NITIN W. SAMBRE, J.]