

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

CRIMINAL WRIT PETITION NO. 1092 OF 2019

Anil Dnyaneshwar Waghmare

...Petitioner

Versus

Rupali Anil Waghmare and Anr.

...Respondents

Mr. D.S.Paranjape for Petitioner.

Mr. A.R. Patil, APP for Respondent – State.

Ms. Grishma Lad legal Aid Counsel for Respondent No.1.

CORAM : S.S. SHINDE, J.

DATE : 13th AUGUST 2019

P.C.:

1. This petition takes an exception to the order dated 09.01.2019 passed by the Addl. Sessions Judge at Sangli in Criminal Revision Application No. 95 of 2018 and order dated 03.03.2018 passed by the Trial Court at Vita.

2. Learned counsel appearing for the Petitioner relying upon the grounds taken in the Petition submits that, no harm or prejudice would be caused to the first Respondent if the application at Exh. 14 filed before the Trial Court is allowed. The opinion of hand writing expert is admissible under Section 45 of the Indian Evidence Act,

therefore, the two letters mentioned in the said application ought to have been sent to the hand writing expert for comparing the hand writing and signatures, in order to find out, whether the disputed signatures match with the signature and hand writing of the first Respondent on the admitted document. It is submitted that, both the Courts below did not properly appreciate the contention of the Petitioner that, the said two letters being referred to first Respondent in her cross-examination on 06.01.2016, no prejudice can be caused to the first Respondent if said letters are sent to the hand writing expert.

3. On the other hand learned counsel appearing for the first respondent submits that, though the petitioner filed the Marriage Petition No. 436/2013, in the said proceedings there is no reference to aforesaid two letters. Learned counsel also invites attention of this Court to the reasons recorded by the Courts below, and submits that the attempt of the petitioner to file such application was just to protract the pending proceeding before the trial Court.

4. Heard learned counsel appearing for the respective parties at length. Perused the grounds taken in the petition and annexures

thereto. It appears from the reasons assigned by the Sessions Court that, two letters were referred to first Respondent in her cross-examination on 06.01.2016, and thereafter matter proceeded from time to time and even Respondent No. 1 has closed her evidence. After closing the evidence the petitioner filed an application on 18.01.2017 for sending those two letters for hand writing expert. Therefore, both the Courts below are right in rejecting the application filed by the Petitioner since, same was filed belatedly. The Trial Court has observed that the said two contesting letters by the petitioner can be verified at the time of evidence or judgment.

5. In that view of the matter no case is made out to cause interference in the impugned orders. Hence, Writ Petition stands rejected. However, while hearing the case finally or on the conclusion of the evidence, the Trial Court shall keep in view the observations made by the said Court in the impugned order that, said two contesting letters can be verified at the time of evidence or judgment, and accordingly undertake the said exercise, at the appropriate stage of the proceedings.

(S.S. SHINDE, J.)