

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.379 OF 2020

VISHAL S/O. KOMALSING PATIL

..PETITIONER

VERSUS

CHANDRAKANT S. KANGANE

..RESPONDENT

...
Advocate for Petitioner : Mr. R.B. Temak
Advocate for Respondent : Mr. A.S. Khedkar
...

CORAM : N. R. BORKAR, J.

DATE : 28.10.2021

PER COURT :-

This Writ Petition challenges the order dated 06-02-2020 passed by the learned Judicial Magistrate, First Class, Chalisgaon, District Dhule, below Exhibit-192 in Summery Criminal Case No. 1096 of 2008.

2. The petitioner herein has filed complaint case against the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

3. The applicant had moved an application at Exhibit-192 with a prayer to refer the cheque in question to handwriting expert. It is further prayed that Compact Disk (CD) containing conversation between the complainant-petitioner and the accused- respondent

in relation to the transaction in question be sent to Forensic Expert. The learned Magistrate rejected the said application by the order impugned.

4. I have heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. Learned counsel for the petitioner submits that for just decision of the case, the learned Magistrate ought to have referred the cheque in question to handwriting expert as defence of the accused is that the cheque in question was never issued by him. It is submitted that CD in which there is conversation between the petitioner and the respondent in relation to the transaction in question was also required to be sent to Forensic Expert for examination as the same would have helped the learned Magistrate to arrive at just decision of the case.

6. On the other hand, learned counsel for the respondent submits that the present application came to be moved after seven years of the filing of the complaint case and that too after the defence evidence is over. It is submitted that the learned Magistrate was therefore, justified in rejecting the application at Exhibit-192.

7. It appears that the evidence of the petitioner-complainant and even the defence evidence is already over.

Thereafter, petitioner-complainant moved an application for adducing additional evidence and same was allowed. After adducing additional evidence, the petitioner- complainant closed his evidence. Thereafter, application at Exhibit-192 came to be moved when the petitioner-complainant was aware about the defence of the respondent-accused from the very initial stage of filing of the complaint.

8. Considering the aforesaid facts and circumstances, no interference is called for in the impugned order in writ jurisdiction. Hence, Writ Petition is dismissed.

(N. R. BORKAR)
JUDGE

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