

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

919 CRIMINAL WRIT PETITION NO.443 OF 2021

**NITA W/O. SURESH DETH
VERSUS
DAGDU SHANKAR MISTRI**

...
Advocate for Petitioner : Mr.Bide Dnyaneshwar A.
Advocate for Respondent : Mr. P.G.Tambade h/f Mr.Jadhavar S.S.
...

CORAM : N.R. BORKAR , J.

DATE : 17th NOVEMBER, 2021.

P. C. :

1. This petition takes an exception to order dated 9.03.2021 passed by the Judicial Magistrate, First Class, Rahuri, below Exh. 42 in SCC No. 497 of 2014.

2. The respondent herein has filed complaint case against the present petitioner for the offence punishable under Section 500 of Indian Penal Code (for short "I.P.C.")

3. The application at Exh. 42 was filed by the respondent seeking permission to examine a hand writing expert to whom the document was sent for examination. The said application came to be allowed by the order impugned.

4. I have heard the learned counsel for the petitioner. The

learned counsel for the petitioner submits that similar application was filed by the respondent in Civil Suit filed by him against the petitioner for damages. It is submitted that Civil Court rejected the said application, against which a Writ Petition was filed before this Court. It is submitted that this Court confirmed the order passed by the Civil Court. It is submitted that hand writing expert was not even cited as witness in the list of witnesses submitted by the respondent with the complaint. It is submitted that trial Court was, thus, not justified in allowing the application.

5. The trial Court while allowing the application has recorded the following reasons :

“The main allegations in the complaint are that the present petitioner had sent a letter on 7.3.2013 to the Deputy Director of the Education, Pune and various other authorities. In the said letter there are allegations against respondent that he has misappropriated the funds by deceiving the Government. Due to said letter, the reputation of the respondent is lower down. According to the respondent, said letter was sent to the hand writing expert and now he has received the report. In the complaint there are averments in respect of defamatory letter dated 7.3.2013 .”

6. It is not the case of the petitioner that the evidence of

witness in question is not at all relevant for deciding the issue involved in the matter. Therefore, no interference is called for in the impugned order.

8. Petition is dismissed.

(N.R. BORKAR)
JUDGE

mahajansb/