

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**17 CRIMINAL WRIT PETITION NO.1567 OF 2020
WITH APPLN/2806/2021 IN WP/1567/2020 WITH**

**GOVIND S/O RAMBILAS BIYANI
VERSUS
PRAKASH S/O DATTOPANT GORKAR**

Mr. Sayyed Tauseef Yaseen, Advocate for the
petitioner

Mr. S. P. Pandav, Advocate for the respondent

CORAM : N. R. BORKAR, J.

DATE : 13-12-2021

P. C.

. This petition takes an exception to the order passed by the learned Magistrate dated 22-07-2019 below Exh.72 in Summary Cri. Case No.296 of 2015 and the order passed by the Additional Sessions Judge in Criminal Revision No. 90 of 2019 dated 08-01-2020 confirming the order passed by the learned Magistrate.

2. The respondent had filed the complaint case against the present petitioner for the offence punishable under Section 138 of the Negotiable Instrument Act. According to the petitioner blank

cheque was given to the respondent for obtaining loan. The application at Exh. 72 was thus made for sending the cheque in question to the handwriting expert for his opinion. The learned Magistrate rejected the said application at Exh. 72 by order dated 22-07-2019.

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

4. It appears that prior to filing of the application at Exh.72 by the petitioner similar application was filed by the respondent. However, the said application was withdrawn. According to the petitioner he has given blank cheque to the respondent for obtaining loan. It is not the case of the respondent that the petitioner took this defence for the first time by filing the application at Exh. 72.

5. Considering the above facts and circumstances in my view, it would be appropriate to send the cheque in question to the handwriting expert for his opinion as the same would help the

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court to decide the matter more effectively. Hence, the following order is passed:

ORDER

- i. The petition is allowed.
- ii. The orders impugned are set aside.
- iii. The trial court shall send the cheque in question to either Private Handwriting Expert or the State Examiner of documents.
- iv. In view of disposal of the petition, the pending civil application does not survive and the same is disposed of.

[N. R. BORKAR, J.]

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