IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Writ Petition No. 805 / 2020

Ayub Mohd. Nabijaan R. Shaikh .. **Petitioner**

Versus.

Avinash Parshuram Jagtap and Anr. .. **Respondents**

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Mr. Mithilesh Mishra a/w Mr. Gaurav Thote i/by Pratima Rathi, Advocate for the Petitioner.

Mr. Pravin H. Padave a/w Ms. Shobana R. Waghmare, Advocate for Respondent No.1.

Mr. S.S. Hulke, APP for State.

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CORAM : SANDEEP K. SHINDE J.

DATE : 14th SEPTEMBER,2021.

P.C. : -

Heard. Learned Counsel for the parties.

1. This petition under Article 227 of the Constitution of India, challenges the order dated 1st February, 2020 in Criminal Complaint No. 5611259/SS/ 2019, instituted by the Respondent No.1 (complaint) under Section 138 of the Negotiable Instrument Act

against the Petitioner-accused. Cheques issued by the Petitioner, allegedly in the discharge of legally enforceable dues, being hand-loan given by the Complainant to the accused, during January,2015 to May,2016 were returned unpaid. It seems that, accused aknowledge the ‘debt’ in M.O.U. executed by and between the parties. Be that as it may, the Complainant has relied on and produced fourteen documents in support of the complaint, including the Income Tax Returns for the period of 2015-16 and 2016-17. These facts are not in dispute.

2. In the backdrop of admitted facts, it may be stated that in cross-examination, the Complainant deposed that he had filed Income Tax Return since 2011-12 onwards till date; except for the year 2014. Pending cross-examination, the accused moved an application below Exhibit-25, seeking directions to the Complainant to produce his Income Tax Returns and bank statements for the period, 2011 till 2020. The learned trial Court rejected the said

application, and thus this petition.

3. I have perused the complaint, evidence and the affidavit-in-reply of the Complainant. Admittedly, the alleged hand-loan was given to the accused during the period, January,2015 to May,2016 and the Tax Returns for this period, are placed on record by the Complainant. Therefore, seeking directions to the Complainant to produce all Tax Returns and Bank Statements from the Assessment Year 2011-12 till 2020-2021, were neither necessary, nor desirable for the purposes of trial.

4. In consideration of these facts, in my view, the learned trial Court has not committed an error in exercise of his jurisdiction in rejecting his application below Exhibit-25. As a consequence, no interference is called for in the impugned order.

5. Writ Petition is dismissed.

(SANDEEP K. SHINDE, J.)

Najeeb..

MOHAMMAD NAJEEB MOHAMMAD QAYYUM

Digitally signed by MOHAMMAD NAJEEB MOHAMMAD QAYYUM
Date: 2021.09.14 17:47:38 +0530