

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

CRIMINAL WRIT PETITION NO. 264 OF 2022

Rushikesh Dattatraya Patil

.. Petitioner

Versus

Amar Anandrao Jadhav (Patil)

.. Respondent

Mr. R. K. Ashtekar, Advocate for the Petitioner.

Mr. S. N. Rodge, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATED : 08th DECEMBER, 2022.

P. C. :-

1. The present writ petition is filed against the order passed by the learned J.M.F.C., Latur in S.C.C. No. 15/2015 on an application below Exhibit-105 dated 21.01.2022. The learned J.M.F.C. has rejected the prayer to stay the proceeding of S.C.C. No. 15/2015 on an application filed by the accused. The accused has prayed for stay to the proceeding in view of the fact that the disputed cheque is referred to the handwriting expert's opinion, however, the handwriting expert did not sent the report in time and had asked for few more documents and specimen signatures for comparison. Even compliance of that requirement was made. However, still no report was received by the Court. It is in this view of the matter, the accused filed an application

below Exhibit-105 requesting the Trial Court to stay the proceeding only till the report of the handwriting expert is received. However, the said application came to be rejected and thus, the present petition is filed in this Court.

2. This Court by order dated 28.02.2022 issued notice and granted stay to the proceeding of S.C.C. No. 15/2015 pending before the learned Trial Court.

3. Today, it is jointly submitted by the parties before this Court that because of the stay granted by this Court, the learned Trial Court is not issuing notice to the handwriting expert calling for report, nor issuing any directions to submit the report within stipulated period. Thus, the matter is stayed and both the parties are not aware whether even handwriting expert has sent the report or not. Thus, they have prayed that handwriting expert be directed to send his opinion at the earliest to the learned Trial Court.

4. It is necessary here to consider that stay was prayed by the accused only for the period till the handwriting expert's report is received by the Court. It is on that, the petition is filed and ad-interim relief was granted. Thus, for that reason now there is no progress in the matter of getting the handwriting expert's opinion at the earliest.

Considering that, the stay was granted only till the time handwriting expert's report is received. Main object of stay to the trial was only to facilitate the accused to proceed with the trial after the handwriting expert's report is received.

5. Thus, it is clarified that, the learned Trial Court may not proceed with the actual trial of the case, but it can certainly issue certain directions to the handwriting expert so as to ensure that his report is received in time. The learned Trial Court is free to take every step that is required to get handwriting expert's opinion for the purpose of trial.

6. It is fairly submitted by both the learned advocates that purpose would be served by making this clarification and the petition can be disposed off.

7. The learned Trial Court is free to proceed with the matter after the handwriting expert's report is received. If, in case the documents which are required by the handwriting expert are not sent, the same shall be send to the handwriting expert.

8. With this clarification, the writ petition is disposed off.

9. It is expected that, the learned Trial Court to complete the trial as

expeditiously as possible and within a period of one (01) year from today by making attempts to obtain handwriting expert's opinion at the earliest.

(KISHORE C. SANT, J.)

PS.B.