

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

929 CRIMINAL WRIT PETITION NO.658 OF 2022

AND

930 CRIMINAL WRIT PETITION NO.659 OF 2022

931 CRIMINAL WRIT PETITION NO.660 OF 2022

VIJAYKUMAR JAGANNATH MUNDADA

VERSUS

GAURAV DEEPAK BHARUKA

...

Advocate for Petitioner : Mr. Tabrezuddin R. Quadri I.by Mr. Zia Ul Mustafa

...

CORAM : KISHORE C. SANT, J.

DATE : 25th NOVEMBER 2022.

Per Court :

1. Since the issue involved is the same in the matters, common order is being passed. The order under challenge is the order of refusal to refer the document i.e. cheque to hand-writing expert. It is the submission of the learned Advocate for the Petitioner that it is necessary at this stage to refer the cheque to the hand-writing expert as he disputes the signature and contents and also his signature on the postal acknowledgment differs and it is thus necessary to obtain expert's

opinion. He filed an application before the learned Court of Judicial Magistrate First Class, Court No.14, Aurangabad. The learned Magistrate, however rejected the application by assigning reason that the accused can raise the defence by way of cross-examination and if during the cross-examination of Complainant, he admits the suggestion in respect of tampering in the question documents, the question of referring the documents will not arise. As it as, the evidence of the defence is yet to start. The accused will always have a chance to prove his defence after the evidence of Complainant is over.

2. In view of above, this Court finds that the reason assigned by the trial Court is not perverse. No illegality is committed by the trial Court. On the contrary, it is made clear that the Petitioner will get an opportunity. The order was passed by considering the judgment in the case of **Pralhad Saral Gupta Vs. Bar Counsel of India** reported in LAWS (SC)-1997-2-137. This Court does not deem it fit to entertain these petitions at this stage. Hence the Writ Petitions are disposed off accordingly.

[KISHORE C. SANT, J.]