

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

CRIMINAL WRIT PETITION NO.1350 OF 2021

Chandrakant s/o. Bhagwat Gudmewar

..Petitioner

Vs.

Mathura Agencies and Furniture Centre,
Udgir, through

Prop. Nandkumar s/o. Jagannath Nalandwar

..Respondents

Mr.Ram S. Shinde, Advocate for petitioner
Mr.V.G.Kodare, Advocate for respondent

**CORAM : R.G. AVACHAT, J.
DATE : FEBRUARY 14, 2022**

ORDER :-

Heard.

2. The challenge in this petition is to the order dated 05.10.2021 passed by the trial Court below Exh.179 in S.T.C. No.3427 of 2004. Vide order impugned herein, the application moved by the complainant in a cheque bouncing case (Section 138 of Negotiable Instruments Act) for issuance of summons to the handwriting expert for his examination as witness in the case, was turned down.

3. What can be gathered from the submissions advanced, is that the petitioner herein is the complainant in S.T.C. No.3427 of 2004. The respondent herein is accused therein. On the application moved

by the respondent himself, the cheque was sent to the handwriting expert for examination and his opinion. Said application was allowed. The expert did his job and submitted report. The petitioner/complainant had then moved an application to admit said report in evidence by formally giving it exhibit number. The trial Court rejected said application. Said order was not challenged. The petitioner, however, moved application (Exh.179) for the very purpose i.e. to call the expert for examination in proof of the report.

4. When the expert's report was placed on record at the instance of the other side (accused) and the petitioner-complainant wants to admit it, the trial Court ought to have given it exhibit number with a view to admit it in evidence. Since the Court had not done so, the petitioner had no option but to move the application (Exh.179) to summon the expert in proof of the report. Since the document placed on record by the opposite side wants to be relied on by other one, same has to be admitted in evidence without examining the author thereof. Both learned counsel, therefore, came around to submit to direct the trial Court to admit the expert's report in evidence by giving it exhibit number.

5. In view of the above, the petition stands disposed in terms of the following order:-

- (i) The trial Court is directed to admit the report/opinion submitted by the expert pursuant to the order passed below Exh.66.
- (ii) The trial Court shall make every endeavor to decide the case as early as possible and preferably, within a period of four months from the date of receipt of a copy of this order.

[R.G. AVACHAT, J.]

KBP