

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**CRIMINAL WRIT PETITION NO.367 OF 2022**

**Petitioner** : **Damodhar Radhakisan Zanwar,**  
Aged about 40 yrs., Occu : Business,  
R/o. Sabanpura, Amravati,  
Tq. & Dist. Amravati.

– Versus –

**Respondent** : **Darshan Shrikisanji Kalanti,**  
Age about 35 yrs. Occu : Business,  
R/o Pannalal Nagar, Amravati,  
Tq. & Dist. Amravati.

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*Mr. S.B. Gandhe, Advocate for the Petitioner*  
*Mr. J.B. Kasat, Advocate for the Respondent.*  
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**CORAM** : **VINAY JOSHI, J.**  
**DATE** : **5<sup>th</sup> JULY, 2022.**

**ORAL JUDGMENT :-**

**Rule.** Rule made returnable forthwith. Heard finally by consent of both sides.

02] The petitioner (accused) challenged the impugned order dated 01/12/2021 passed on Exh.94, by which the learned Magistrate has refused to send the documents to the Government Handwriting Expert. The said order was confirmed in revision, hence the challenge.

03] The petitioner's learned Counsel would submit that earlier the petitioner has applied for sending the documents to the Handwriting Expert and it was allowed vide order dated 22/06/2018. Since the private Handwriting Expert was not available, the petitioner was unable to comply and, therefore, he has merely renewed the prayer, but the trial Court erred in rejecting the same.

04] *Per contra*, the learned Counsel appearing for the respondent (complainant) strongly opposed the application by contending that this application is nothing but one more attempt to delay the proceeding. He took me through paragraph 4 of the order passed in revision, which reflects the instances as to how the matter has been delayed.

05] Undisputedly, the private complaint was filed in the year 2011 for the offence punishable under Section 138 of the Negotiable Instruments Act. The complainant's evidence was completed in the year 2014 as well as the statement of the petitioner (accused) was recorded in terms of Section 313 of the Code of Criminal Procedure in the year 2014 itself. One does not know as to how the proceeding has lingered for next four years. Anyhow vide order dated 22/06/2018, the learned Magistrate has initially allowed the prayer for sending the documents to private Handwriting Expert. However, the said order appears to have not been complied. If the particular Handwriting

Expert was not available, the petitioner could have sent it to someone else or would have urged for sending the documents to the Government Handwriting Expert within the proximity. However, it reveals from the record that despite favourable order, the petitioner did nothing as well as remained absent which has caused the Magistrate to issue non-bailable warrant on 22/11/2019. The record indicates that on 15/09/2021, the non-bailable warrant was got cancelled and thereafter the petitioner has come up with a new application dated 18/11/2021 seeking to send the documents to the Government Handwriting Expert. The litigating history loudly demonstrates that the petitioner's act is nothing but to put the scope in the smooth progress of the trial. Moreover, in 2013 itself, during cross-examination the complainant has denied the signature and that was the time when the petitioner ought to have applied for Expert's opinion. It is apparent that as and when the trial Court started to proceed with the case, the petitioner has taken up the stale claim of sending the matters to Handwriting Expert. Absolutely, there are no *bona fides* and, therefore, the petition deserves to be dismissed and stands dismissed accordingly.

06] The trial Court shall endeavour to dispose of 10 years old case within the period of three months from today. Rule stands discharged.