

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL WRIT PETITION NO.909 OF 2021

Nilesh Gowardhandas Dammani

..VS..

Sushila Ashok Gangwani

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Sawan Alaspurkar, Advocate for the petitioner.

CORAM : VINAY JOSHI, J.

DATED : 14/06/2022.

Heard.

2. The petitioner challenges the order passed by the learned Magistrate rejecting the petitioner's urge directing complainant to file an evidence affidavit in Marathi language.

3. Initially, the respondent has filed a private complaint bearing Summary Criminal Case No.3586 of 2018 in the Court of Magistrate for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

4. In said proceedings the respondent (complainant) has filed his evidence on affidavit in English language on the basis of which the learned Magistrate took cognizance and issued process. In turn, the petitioner (accused) appeared in the case and the matter was posted for cross-examination of the complainant. At this juncture, the petitioner (accused) has filed application (Exhibit 18) seeking

directions to the complainant to file his evidence affidavit in Marathi language. The entire thrust is on Section 272 of the Code of Criminal Procedure, which has empowered the State Government to determine the language of Court. Undisputedly, by virtue of notification dated 21.07.1998, the language of Court other than High Court is Marathi. In the said background the petitioner has insisted to file an evidence affidavit in Marathi language.

5. The learned Counsel for the petitioner would submit that since the language of Trial Court is Marathi, it is obligatory for the party to file an evidence affidavit in Marathi. In support of the said contention, reliance is placed on the decision of this Court in case of ***Govind Ganesh vs. R.R. Mirokhe and anr. 2010 CRI. L.J.2721***. It is observed that the Magistrate is required to record the evidence in Marathi language. Likewise, reliance is placed on the another decision of this Court in case of ***Harinarayanan Punamchand Vyas vs. State of Maharashtra 2009 ALL MR (Cri) 2543*** to emphasize that the language of Court is Marathi. There is no dispute that the language of Trial Court is Marathi.

6. It is evident that already the evidence affidavit has been filed by the complainant in English language. No doubt, the Magistrate is under obligation to record the cross-examination in Marathi language as well as further evidence, if any, in Marathi led by the parties. However, already evidence affidavit has been filed on

record of which cognizance has been taken. In the circumstances, there is no propriety to cause the parties to withdraw his evidence affidavit and file the same in Marathi language. Pertinent to note that, the petitioner (accused) in his application (Exhibit 18) never contended that he is unknown to English language, moreover, his application itself is drafted in English language, signed in English with certain fluency.

7. It is apparent that in order to protract the proceedings filed under Section 138 of the Negotiable Instruments Act, this application has been filed, which lacks the *bona fides*.

8. Having regard to the said fact, there is no substance in entertaining the writ petition. Hence, the petition stands disposed of.

(VINAY JOSHI, J.)

Trupti