

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.774 OF 2023

PRAVIN SANTOSH SALVE  
VERSUS  
MAHESH VASANT SURASE

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Advocate for Petitioner : Mr. M. A. Dond  
Advocate for Respondents : Mr. S. P. Sonpawale

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 04, 2023

PER COURT :

1. This Petition takes exception to the orders dated 05.01.2023 passed below Exh. 46 in S.C.C. No. 8427/2019 by learned Additional C.J.M., Ahmednagar rejecting application for referring cheque to the handwriting expert for comparison of signature thereon and order dated 15.05.2023 passed by Revisional Court rejecting the revision against the said order.

2. Perusal of the record does not indicate that the Petitioner, who is an accused for the offence punishable under Section 138 of Negotiable Instruments Act, had replied statutory notice indicating that the cheque in question was never signed by him. There is no suggestion made to the complainant in his cross-

examination to the effect that the cheque Exh. 34 does not bear his signature. Only statement of the learned Counsel for the Petitioner is that since the bank memo indicated that the signature differs, it gives him right to refer the said cheque for comparison of signature and for obtaining the opinion of handwriting expert.

3. For the purpose of making such prayer it was necessary for the accused to lay foundation by replying notice or cross-examining complainant with suggestion that he never signed the cheque in question. In the instant case, no such foundation is laid by the Petitioner. Contention of the Petitioner cannot be accepted merely for the reason that bank memo indicates about variance in the signature, he is entitled to send check for opinion. There is difference between variance in the signature and signature being not done by the Petitioner. If specimen signature with the bank does not tally then such remark can always be given by the bank that signatures differs. This, however, does not automatically lead to the inference that signature on cheque is not made by the Petitioner.

4. Thus, this Court finds no infirmity in the order passed by the trial Court as well as Revisional Court rejecting the said request. Hence, Petition stands dismissed.

(R.M. JOSHI, J.)

Malani