

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

42 CRIMINAL WRIT PETITION NO.1052 OF 2022

**SAVITRI W/O. SHANKAR JAGDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.D.B. Pokale, Advocate for the petitioner.

Mr.P.M. Kulkarni, APP for the respondent/State.

**CORAM : KISHORE C. SANT, J.
DATED : 03.04.2023**

PC :-

01. Heard learned Advocate for the petitioner. This petition is directed against rejection of application filed by the accused for sending cheque to handwriting expert as as the petitioner-accused denied his signature on the cheque. The learned JMFC rejected the application specifically observing that the Court had verified signature of the accused on the cheque and other documents before the Court and found that the signature on the cheque is of the accused. It is observed that at the time of clearing the cheque, banker has also verified specimen signature of the drawer of the cheque.

02. The petitioner, therefore, preferred Criminal Revision bearing

No.67 of 2021. The learned Sessions Judge dismissed the revision by observing that the complainant had examined the banker of the petitioner. The Court thus found that there was no merit in the ground of the petitioner that the signature appearing on the cheque is not of the accused. The learned Advocate for the petitioner submits that the banker cannot be said to be an expert and therefore his evidence cannot be accepted in respect of signature on the cheque. The learned Advocate relies on a judgment of this Court in the case of Bandeppa Mallikarjun Kante Vs. Madhav Narayanrao Birajdar, reported in 2016 DGLS(Bom) 486, wherein this Court finds that it was case of the accused that he had given blank cheque with his signature and the contents were filled in by the complainant. Thus, in that case it was question that the contents of the cheque, which were disputed and in that view the Court had allowed the application of the accused and sent the cheque to handwriting expert.

. Further the judgment reported in 2007 ALL MR (Cri) 820 (S.C.) in the case of Mrs. Kalyani Baskar Vs. M.S. Sampooram. In the said case there was evidence of the banker. Specific question was put to the banker during cross-examination, wherein the banker deposed that he did not verify the signature before returning the cheque in question and it is in that view of

the matter the cheque was directed to be referred to the handwriting expert.

. Another judgment he relied upon is the judgment reported in (2008) 5 SCC 633, wherein the Hon'ble Apex Court considered the judgment in the case of Kalyani (supra). The accused has taken defence that in-fact cheque with signature was misused by entering huge amount in cheque. In that view of the matter, the Hon'ble Apex Court had allowed the application of the accused by setting aside the judgment passed by the High Court. From para 12 of the said judgment, it can be seen that it was question of hand writing appearing on the cheque and not only question of signature. There another question was about age of writing on the cheque. It was observed as below :-

“12. However, it is not necessary to have any expert opinion on the question other than the following :-

“Whether the writing appearing in the said cheque on the front page is written on the same day and time when the said cheque was signed as “T. Nagappa” on the front page as well as on the reverse, or in other words, whether the age of the writing on Ext. P-2 on the front page is the same as that of the signature “T. Nagappa” appearing on the front as well as on the reverse of the cheque Ext.P-2?”

03. Thus, in view of this matter, this Court finds that the above referred judgments are not applicable to the facts of the case. This Court finds

that there is no merit in the petition. Same deserves to be dismissed. Hence the petition stands dismissed and disposed off.

[KISHORE C. SANT, J.]