

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 905 OF 2022

M/s. Immortal Infrastructure Pvt. Ltd.
and anr. ... Applicants
v/s.
Mr. Tajuddin M. Mujahid and ors. Respondents

Mr. Jehangir Khajotia a/w. Mr. Fakhruddin Khan i/b.
Saima Ansari for the Applicants.
Mr. Jugal Kanani for the Respondents.
Mr. A.R. Patil, APP for the State.

CORAM: R.G. AVACHAT, J.

DATED : 25th JANUARY, 2023.

P. C. :-

- . Heard learned counsel for the respective parties.
2. The challenge in this Application is to the order declining request of the Applicant/accused to examine four witnesses in his defence.
3. It is a matter under section 138 of Negotiable Instruments Act. Learned counsel for the Respondent-complainant would submit that the case dates back to the year 2011. Since 2014, the Applicant/accused was not appearing before the Trial Court many times. His presence was required to be secured by issuance of non-bailable warrant. He was even arrested and produced before the Trial

Court.

4. The turn of the Applicant/accused to lead his evidence came up in 2019. About two years lapsed in Covid-19 pandemic. The records indicate that the Applicant/accused got examined the documents from the handwriting expert. The handwriting expert report is on record. To prove the same, the expert is required to be examined. Learned counsel for the Applicant/accused makes a statement before this Court that out of 04 witnesses, he is inclined to drop 03 witnesses and would only examine the handwriting expert.

5. With a view to give reasonable opportunity to the Applicant/accused to make out his defence, the Court proposes to allow his application. The Application is thus allowed. The Trial Court is requested to examine the said witness (handwriting expert) within the time frame of 02 months from the date of receipt of copy of this order and conclude the proceedings finally within 03 months thereafter. Learned counsel for the Applicants assures full co-operation.

6. Application stands disposed of in above terms.