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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4859 OF 2019

Shantilal Dungershi Maru .. Petitioner

v/s.

M/s. Laxmi Ply Agency And Ors. .. Respondents

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Mr. Aarif Ali M. Ali, for the Petitioner.

Mr. Chaula Solanki, a/w. Mr. H.H. Nagi, Ms. Rinky Kanojia and Mr. Rohan Jadhav, for Nagi & Associates, for Respondents.

Mr. A.R. Patil, APP, for State.

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CORAM: R.G. AVACHAT, J.

DATE : 5 JANUARY 2023.

P.C:-

Heard.

2. The challenge in this writ petition is to the order dated 16 August 2019 passed by the learned Additional Sessions Judge, Greater Mumbai, allowing the application of the Respondent/accused for forwarding his cheque to the handwriting expert for examination of signature appearing thereon.

3. The trial court had rejected the application. The

Respondent/accused, therefore, preferred revision, wherein the order impugned herein has been passed.

4. The learned Advocate for the Petitioner would submit that the case dates back to 2012. The cheque was not honoured on account of stop payment instructions. Had the defence of the Respondent/accused been genuine, he would have come with the same at the earliest opportunity, that is no sooner he received the summons of the case. The learned Advocate adverted this Court's attention to Section 243(2) of Criminal Procedure Code to submit that an application is moved only with a view to delay the hearing of the case. The amount involved is of Rs.1 crore.

5. Considered the submissions advanced. It is a case of dishonour of cheque.

6. The case dates back to 2012. The record indicates that the plea was recorded. 313 statement of the Respondent/accused was recorded on 23 January 2018. On the very next date, the Respondent/accused moved the application seeking the signature in the cheque to be examined by handwriting expert. In terms of the legal position, the Respondent/accused moved the application, when his turn to lead evidence came. It is the case of the Respondent/accused that a cheque was stolen and he had lodged a police report. In the course of

examination of the complainant, he was confronted with the very defence. As such, this Court, prima facie, does not find the application to have been moved with a view to delay the hearing of a case. The learned Additional Sessions Judge has already exercised his discretion. This Court, therefore, do not propose to interfere therewith. At this stage, the learned Advocate for the Petitioner submits that the report of the handwriting expert be directed to be submitted within a time-frame.

7. In view of the above, the writ petition stands dismissed with a direction to the trial court to instruct the concerned handwriting expert to submit his report within a time-frame of six months from the date he receives the cheque and specimen signature/handwriting.

(R.G. AVACHAT, J.)