



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

997 CRIMINAL WRIT PETITION NO. 962 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Parag Chandrakant Kulkarni and another
...

AND

998 CRIMINAL WRIT PETITION NO. 963 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Parag Chandrakant Kulkarni and another
...

AND

999 CRIMINAL WRIT PETITION NO. 964 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Rohinibai W/o. Chandrakant Kulkarni and another
...

AND

1000 CRIMINAL WRIT PETITION NO. 965 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Supriya W/o. Manoj Kulkarni and another
...

AND

1001 CRIMINAL WRIT PETITION NO. 966 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Supriya W/o. Manoj Kulkarni and another
...

AND

1002 CRIMINAL WRIT PETITION NO. 967 OF 2023

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Nandkishor Shamkant Sonar
VERSUS
Supriya W/o. Manoj Kulkarni and another

...

AND
1003 CRIMINAL WRIT PETITION NO. 968 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Abhinay Ganesh Naik and another

...

AND
1004 CRIMINAL WRIT PETITION NO. 969 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Abhinay Ganesh Naik and another

...

AND
1005 CRIMINAL WRIT PETITION NO. 970 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Abhinay Ganesh Naik and another

...

AND
1006 CRIMINAL WRIT PETITION NO. 971 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Abhinay Ganesh Naik and another

...

AND
1007 CRIMINAL WRIT PETITION NO. 972 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Abhinay Ganesh Naik and another

...

AND

1008 CRIMINAL WRIT PETITION NO. 973 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Apurva W/o. Abhinay Naik and another
...

AND

1009 CRIMINAL WRIT PETITION NO. 974 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Ganesh Vishnu Naik and another
...

AND

1010 CRIMINAL WRIT PETITION NO. 975 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Varshabai W/o. Ganesh Naik and another
...

AND

1011 CRIMINAL WRIT PETITION NO. 976 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Vaikalpa Vikas Kulkarni and another
...

AND

1012 CRIMINAL WRIT PETITION NO. 977 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Vaikalpa Vikas Kulkarni and another
...

AND

1013 CRIMINAL WRIT PETITION NO. 978 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Deepak Diwakar Kulkarni and another
...

AND
1014 CRIMINAL WRIT PETITION NO. 979 OF 2023

Nandkishor Shamkant Sonar
VERSUS
Deepak Diwakar Kulkarni and another

...

Advocate for the Petitioner : Mrs. Rashmi S. Kulkarni with Ms. Namita Thole

Advocate for Respondent No.1 (in all matters) : Mr. Sunil D. Kaldate and Mr. S.G. Dodya

APP for Respondent No.2 : Mr. Mukesh K. Goyanka, Mrs. Pratibha J. Bharad, Mr. Satish A. Gaikwad.

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CORAM : SHIVKUMAR DIGE, J.
DATED : 25th JUNE, 2024.

PER COURT :-

1. Heard learned counsel for the petitioner, learned counsel for respondent No.1 and learned A.P.Ps. in all matters. Learned counsel for respondent No.1 tenders affidavits in reply in criminal writ petition Nos. 972 of 2023, 976 of 2023 and 978 of 2023, which are taken in record.

2. In all these writ petitions, the petitioner is the same and the issue involved in these petitions is same, as the petitions are filed challenging the order passed by one and the same court on applications preferred under Section 91 of Cr.P.C., hence, all these writ petitions are being decided by this common order.

3. It is the contention of learned counsel for the petitioner that the petitioner had filed application under Section 91 of the Code of Criminal Procedure, 1973 before the trial court seeking directions to respondent No.1 for production of documents. The trial court has rejected the said application. Learned counsel further submitted that it is settled principle of law that for deciding the issue in the said trial, fair opportunity should be given to both the parties. The petitioner had filed an application for production of documents, as the petitioner wants to prove his case. Hence, requested to allow all the writ petitions.

4. It is the contention of learned counsel for respondent No.1 in all the writ petitions that in some matters, respondent No.1 had given documents as prayed by the petitioner. Learned counsel further submitted that the complaints were filed by respondent No.1 under Section 138 of Negotiable Instruments Act, hence, the petitioner can examine the defence witness to prove his defence. For that purpose, respondent No.1 cannot be compelled to produce the documents. Hence, requested to dismiss the writ petitions.

5. Learned A.P.P. submits that the appropriate order be passed.

6. I have heard all learned counsel. Perused the impugned order passed by the trial court as well as the revisional court i.e. the learned Additional Sessions Judge, Bhusawal. In the impugned order, the trial court has observed that the complaints against the petitioner are filed under Section 138 of Negotiable Instruments Act. The petitioner can rebut the presumption held against him and the petitioner has right to examine the defence witness and on that ground the trial court has rejected the application of the petitioner. I do not find any infirmity in it. In my view, the petitioner has right to examine the witness in support of his defence and he can rebut the presumption. It is the contention of learned counsel for the petitioner that the petitioner be permitted to file an application under Section 254(2) of the Cr.P.C. before the trial court. In my view, the petitioner has right to file application before the trial court as per provisions of law and the trial court can decide said application on its own merits. If the contention of the petitioner is kept open it would suffice the purpose. In view of above, I pass the following order:-

O R D E R

I. All writ petitions are disposed of with liberty to the petitioner to file appropriate application to prove his defence. The learned Magistrate shall decide the said application on its own merits.

- II. All contentions of the petitioner are kept open.
- III. The trial court is requested to decide the pending matters as early as possible.

(SHIVKUMAR DIGE, J.)

rlj/