



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

105 CRIMINAL WRIT PETITION NO. 1299 OF 2023

Ganpat Annasaheb Chavan

VERSUS

Suresh Ramling Ghongade

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Advocate for the Petitioner : Mrs. Anjali Dube

Advocate for Respondents : Mr. Navin Shah h/f Mr. S.V. Natu

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CORAM : SHIVKUMAR DIGE, J.

DATED : 19th AUGUST, 2024.

PER COURT :-

1. By this writ petition the petitioner is challenging the order dated 14.6.2023, passed below Exh.77 in S.T.C.C. No. 2359 of 2015 by the Judicial Magistrate First Class, Court No.4, (for short "J.M.F.C.") Latur.

2. It is the contention of learned counsel for the petitioner that the respondent has filed a complaint against the petitioner under section 138 of Negotiable Instruments Act (for short "N.I. Act"). The learned counsel further submitted that the respondent has examined himself and his witnesses in support of his case. Thereafter, he filed an application Exh. 54 under Section 311 of Cr.P.C. for examining himself and for production of documents. The said application is allowed. Learned counsel further submitted that allowing the said

application will amount to filling up the lacunae of the respondent, but this fact is not considered by the learned trial court. Learned counsel further submitted that earlier the application requesting the same prayer was filed by the respondent before the trial court and the said application was rejected by the trial court. Against the said order, the revision application was preferred. The said revision was also dismissed. But these facts are not considered by the trial court while passing the impugned order. Hence, requested to allow the writ petition.

3. It is the contention of learned counsel for the respondent that in earlier order dated 1.10.2019, the learned trial court while rejecting the application of the respondent has observed that the respondent can produce the documents referred in the cross examination. Accordingly, the respondent has filed an application for production of those documents at Exh.61 at Sr. Nos. 2 and 3. Except these documents, the respondent does not want to lead any other evidence. It would not amount to fill up the lacunae. Hence, requested to dismiss the writ petition.

4. I have heard both the learned counsel. Perused the impugned order passed by the trial court. In the impugned order, the trial court has observed that the respondent has produced documents as per

the suggestion given to him in the cross examination by the learned counsel for the petitioner herein. The trial court has passed well reasoned order. I do not find any infirmity in it. In my view, the respondent was cross examined at length by the learned counsel for the petitioner and in the cross examination, suggestion was given to the respondent for production of documents and as per that suggestion, the respondent wanted to produce these documents before the trial court. Accordingly, application was filed by the respondent. Though the respondent has examined himself and his cross examination is over, but he was asked to produce the documents by the petitioner. Hence, respondent can be permitted to lead evidence in support of these two documents only i.e. Kaccha account statement and Bank statement of State Bank of India i.e. at Exh.61 at Sr. No. 2 and 3. In view of the above, I pass the following order.

O R D E R

The writ petition is dismissed.

(SHIVKUMAR DIGE, J.)

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