



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

CRIMINAL WRIT PETITION NO. 1402 OF 2023

**ANIL BABULAL KATARIYA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....
Mr. N. B. Narwade, Advocate for Petitioner
Mr. M. M. Nerlikar, APP for Respondent – State
....

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 21 FEBRUARY 2024

PER COURT :-

1. Heard both the sides.
2. The petitioner who is the original informant is before us with the following prayer:-

“[B] That, by issuing appropriate writ or direction in the like nature, the respondent No.2 Superintendent of Police, Ahmednagar may kindly be directed to conduct the inquiry against the guilty police officer and submit the report to this Hon’ble High Court and further be directed to submit the handwriting expert report submitted in his office on 11.03.2014 in order to final adjudication of R.T.C. No.959/2012 pending before the Ld. J.M.F.C. Ahmednagar.”

3. The learned Advocate for the Petitioner submits that R.T.C. No.959 of 2012 has been pending before the learned Magistrate, Ahmednagar, for the offences punishable under Sections 420, 406, 468, 471 of the Indian Penal Code.

4. The disputed cheque was sent for the handwriting expert's opinion. The handwriting expert had returned the cheque with some queries. Mr. S. N. Waybhase, Police Constable of Ahmednagar, was deputed and had received the cheque with the covering letter from the office of the handwriting expert at Pune. However, since thereafter it has been missing.

5. Admittedly, the Superintendent of Police, has initiated enquiry and has also penalized Mr. S. N. Waybhase with fine of Rs.1,000/-.

6. Needless to state that, the quantum of punishment cannot be adjudicated in the present matter.

7. So far as the trial is concerned, obviously the prosecution will have to resort to appropriate provisions of the Indian Evidence

Act, so that the trial progresses. It would always be open for the petitioner to assist the prosecution so that the trial is conducted in a fair manner and if necessary for making a request for a copy of the cheque if available with the company and for seeking permission to lead secondary evidence.

8. The Writ Petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

SMS