



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1002 CRIMINAL WRIT PETITION NO. 1873 OF 2023

Ramprasad Rangrao Kale

VERSUS

NSL Sugars Ltd Unit Iii Jay Mahesh Pawarwadi Through Its
Manager Ashok Ramrao Pawar

Advocate for the Petitioner : Mr. Solanke Krushna S.

Advocate for Respondents : Mr. R.K. Kasat h/f Mr. Aditya N.
Sikchi

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 1st MARCH, 2024.

PER COURT :-

1. This petition is directed against the judgment and order dated 24.11.2023 passed by the Additional C.J.M. Majalgaon, District Beed, below Exh.94 in S.C.C. No. 364 of 2014 which was filed under Section 138 of Negotiable Instruments Act.

2. It is fact that evidence of two witnesses were recorded and the complainant was willing to examine the third witness. Meanwhile, evidence of complainant was closed on 15.4.2017. That order was not set aside. The complainant was trying to prolong the matter. Therefore, order passed against him for closing of evidence, further permission was sought for recording of his evidence. The learned trial court allowed that application and directed the manager of Canara Bank to adduce his evidence. That application was objected by the petitioner accused. The prayer of the petitioner was rejected.

3. Learned advocate for the petitioner submitted that the orders passed by both the courts below are illegal and suffer from perversity and illegality. It is liable to be quashed and set aside.

4. Learned advocate for the respondent submitted that though the evidence close order was passed, the petitioner did not insist for disposing of the matter on merits when the trial court was convinced. The said order was passed on merits.

5. Perused the impugned order. The learned trial court has observed that if the complainant is not present or is not represented by the advocate, in such circumstances, case cannot be proceeded further. Considering the old matter, the trial court has rightly observed that recording of evidence of the said witness is necessary for coming to conclusion of trial finally. Merely because there was earlier order not allowing to record evidence of that witness, the trial court by recording sufficient reasons may allow to record the evidence of such witness, if it is necessary, in the interest of justice. The trial court has passed reasoned order.

6. Considering the aforesaid aspects, there is no illegality or perversity in the impugned order. No interference is warranted in the impugned order of the trial court and the appellate court. The writ petition therefore, deserves to be dismissed. The writ petition is dismissed.

(SANJAY A. DESHMUKH, J.)