

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1006 OF 2024

Ramdas Madhavrao Korde

VERSUS

Shrikant Sudhakar Dahale

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Advocate for the Petitioner : Mr. Deshmukh Mahesh S.

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CORAM : S.G. MEHARE, J.

DATED : JUNE 24, 2024

PER COURT:-

1. Issue notice to the respondent.
2. The petitioner has impugned the order of the learned Sessions Judge passed below Exhibit-38 and 41 dated 20.12.2023 and 19.03.2024.
3. It was an appeal against the conviction under Section 138 of the Negotiable Instruments Act. The respondent/accused moved an application Exhibit-38. A prayer was made to produce the certified copies. The Court passed the order to allow the production. Thereafter, the accused again moved an application Exhibit-41 seeking permission to produce certain documents mentioned in the list. He had disputed the issuance of cheque to the complainant.
4. Learned counsel for the present petitioner/original complainant read the application Exhibit-41 and submitted that the respondent/accused did not request the Court to allow him to lead

the additional evidence. He had made a simple prayer for production. However, the learned Sessions Court has gone ahead and exercising its powers under Section 391 of the Criminal Procedure Code without any prayer observed that the documents are essential to decide the issue. For production, he has no objection. But in the absence of any specific prayer for additional evidence in appeal, the Court ought not to have suo moto granted the prayer as if the application is made under Section 391 of the Criminal Procedure Code. Under the above premise, learned counsel for the petitioner seeks stay to the impugned order dated 19.03.2024 passed below Exhibit-41.

5. Considering the question raised in the petition, there shall be stay to the further progress of Criminal Appeal No.39/2018 pending before the learned Sessions Judge, Ahmednagar till the next date.

6. Stand over to 09.07.2024.

(S.G. MEHARE, J.)