



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION [APL] NO.288 OF 2024

[Sandeep Haribhau Phundkar .vs. Sau. Sunita Rajendraji Jain]

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Mr. S.V. Sirpurkar, Advocate for Applicant.

CORAM : M.W. CHANDWANI, J.

DATE : 21/02/2024.

By the present application, the applicant challenges the order dated 18.01.2024 below Exh.43 passed by the learned Additional Chief Judicial Magistrate, Akola in Summary Criminal Case No.5970/2022 thereby rejecting the application of applicant-original accused for directing the complainant and power of attorney holder to give the specimen signature.

2. The respondent filed a complaint against the applicant through his Power of Attorney holder. The evidence of the complainant is over. The statement of the accused under Section 313 of the Code of Criminal Procedure is recorded. Even he denied to examine any defence witness or to give statement on oath. When the matter was listed for final argument, the present application was moved by the applicant on the premise that the signature on the power of attorney is not of complainant Sunita Jain and is done by her husband, the power of attorney holder.

3. The learned Magistrate, by the impugned order, rejected the application on the ground that the application was

moved at the fag end of the proceeding.

4. It is pertinent to note here that the complainant-witnesses have been examined, but no suggestion was put to the witnesses with respect to challenging of the signature of the complainant on the power of attorney in favour of her husband. When the matter was listed for final hearing, the present application came to be filed. It appears that it is filed just to delay the matter. Even otherwise, the applicant's signature on both the papers is already on record i.e. on acknowledgment of reply to notice and on the power of attorney. The learned trial Court has observed that it can compare the signature made on power of attorney and on the complaint under Section 75 of the Evidence Act.

5. I do not find any infirmity in the order of the learned trial Court in rejecting the application. The application is devoid of merit, hence it is dismissed. Needless to mention that the applicant at the time of final argument can always raise this plea to probabilize his defence and the court may consider the same during the trial.

(M.W. Chandwani, J.)