



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

40 CRIMINAL WRIT PETITION NO. 252 OF 2025

Parmesshwar Shivaji Swami,
Age; 46 years, Occ; Business,
R/o; Near Khandoba Mandir,
Govind Nagar Varvanti Harangul
Shiv Rasta Harangul Bk.
Tq. & Dist. Latur.

... Petitioner

VERSUS

Shankar Vithoba Ilegaonkar,
Age; 49 years, Occ; Business,
R/o; In front of Bidve Eng. College,
Paksharsangavi, Barshi Road, Latur.

...Respondent.

...
Advocate for the Petitioner : Mr. Deshpande Gaurav L.
Advocate for Respondent : Mr. Amit A. Yadkikar
...

CORAM : KISHORE C. SANT, J.

DATE : 17.07.2025.

PER COURT :

1. Heard the learned Advocate for the parties. Taken for final disposal at the stage of admission.

2. The present petitioner has challenged the order dated 18.02.2025 passed by the learned J.M.F.C., Latur, on

application below Exh. 98 in SCC No. 2889 of 2016. The learned Court has rejected an application praying for setting aside the closure of defence evidence order dated 21.09.2024.

3. The petitioner is an accused in trial for the offence punishable under Section 138 of the Negotiable Instruments Act. The 313 statement was recorded on 06.01.2023. His defence started in that proceeding. The petitioner has filed an application for referring documents to the hand writing expert, that application came to be rejected, the petitioner was thus before this Court by filing Criminal Writ Petition bearing No. 1593 of 2024 which was filed in August, 2024. The said petition was dismissed on 20.12.2024. In the mean time, on 21.09.2024 an order of closure of evidence came to be passed. An application for setting aside that order came to be filed on 18.02.2025.

4. Learned JMFC, Latur while dismissing application has recorded the reasons stating that the accused has not stated that why he did not file any application for setting aside defence evidence from 21.09.2024 till passing of the impugned

order.

5. Learned Advocate has vehemently argued that in fact the petitioner was before this Court prosecuting the Criminal Writ Petition No. 1593 of 2024 which was filed in the month of August, 2024. The trial Court was expected to wait till the outcome of the decision of the aforesaid Writ Petition, however the trial Court in between has passed the order of closure of evidence. The petitioner in the application has categorically given reasons and the dates of filing of the Writ Petition in this Court. It is also stated that since he was hopeful that his petition would be allowed and he would be in better position to defend his case, he did not file application earlier. He further submits that valuable rights of the accused would be lost if the order is not set aside and he is not allowed to lead defence evidence.

6. Learned Advocate for respondents/Original Complainant submits that the Writ Petition was dismissed on 20.12.2024, even thereafter, the petitioner did not take prompt steps in trial Court to get the evidence close order set aside. He submits that the trial is of the year 2016 and it is still not

concluded. The learned Court, therefore, has rightly passed the order and therefore, he prays for rejection of the petition.

7. After hearing the parties it is seen that the learned trial Court while rejecting application has given only one reason that the petitioner has not assigned any reason. In fact, going through record itself, it is clearly seen that he has given the reason of pendency of Writ Petition in this Court. In any case the petitioner being an accused, he should be given a fair chance to lead his defence evidence. This Court is, therefore, inclined to allow the Writ Petition with come costs.

8. The amount of cheque is Rs. 1,50,000/-. Considering the meager amount of cheque the petition is allowed with costs of Rs. 3,000/- (Rs. Three Thousand Only) to be paid to the Complainant before the trial Court as condition precedent, within two weeks from today. Subject to such deposit, the impugned order is quashed and set aside. The petition stands allowed in terms of prayer Clause (B).

9. The trial Court is expected to conclude the trial

within six months from today.

10. No parties shall seek any unnecessary adjournments and if any adjournment is sought the concerned trial Court may impose suitable costs.

(KISHORE C. SANT)
JUDGE

mahajansb/