



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

22 CRIMINAL WRIT PETITION NO. 404 OF 2019

MARIYAMBEE SHAIKH HAKIM

VERSUS

YOGESHWAR NAGARI SAHAKARI PAT SANSTHA MARYADIT, ERANDOL

Mr.Vijay B. Patil, Advocate for the petitioner.

Mr.U.S. Malte, Advocate for the sole respondent.

CORAM : KISHORE C. SANT, J.

DATE : 22.08.2025

PC :-

01. Heard learned Advocates for the parties. This petition is taken up for final disposal by consent of the parties.

02. In the present case, a challenge is to an order passed by the learned Judicial Magistrate, First Class, Erandol, Dist. Jalgaon dated 29.01.2019, passed in SCC No. 4 of 2011, rejecting an application Exh.111. By way of the application the accused/present petitioner had prayed to refer the counter of cheque and other documents for hand-writing expert's opinion about contents in the cheque. The learned Trial Court observed that the signature of the cheque is not disputed. What is disputed are only the contents. There is no such defence put up in the cross-examination. The learned Trial Court on hearing the parties, rejected the application as stated above. The petitioner is, thus, before this Court.

03. Learned Advocate Mr. Patil for the petitioner vehemently

argued that in the present case, it is defence of the present petitioner that the counter of the cheque was not signed by the present petitioner. In the cross-examination of witness of respondent bank, specific questions were put about details of loan, amount of loan, date of sanction of loan etc. Further question was specifically put about counter part of the cheque and the same is not produced on record. He thus submits that since beginning there is defence that the contents of the cheque were not filled in by the petitioner. In this view, it was necessary to send the documents to hand-writing expert. The learned Trial Court committed an error by not accepting the prayer of the petitioner.

04. Learned Advocate Mr. Malte vehemently argued that the complaint is of the year 2014. An application was made for the first time on 29.11.2018. By that time the evidence of the bank was already over. The defence witnesses were also examined and at that stage said application was made. Looking to the timing of making of the application, it is clear that the application was filed only with a view to prolong the trial. He submits that the learned Trial Court has clearly observed that the signature of the cheque is not disputed by the petitioner. He thus submits that the order is rightly passed. There is no illegality or perversity in the order. He prays for dismissal of the petition.

05. This Court has heard the learned Advocates for the parties. In the application prayer is made that documents i.e. counter of cheque, Vakalatnama signed by the accused and his specimen signature be sent for hand-writing expert's opinion. There is no prayer to refer the signature on the cheque to the hand-writing expert. This also shows that

the signature on the cheque is not disputed. In view of presumption under section 20 of the Negotiable Instruments Act, this Court finds that when signature is not disputed, even if contents are not written in the hand-writing of the accused, it hardly makes any difference. This Court does not find any perversity or illegality in the order passed by the learned Trial Court.

06. The writ petition, being devoid of merits, stands dismissed.

07. Looking to the fact that the complaint is pending since 2014, the Trial Court is expected to dispose off the same within one year from today.

[KISHORE C. SANT, J.]