



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 CRIMINAL WRIT PETITION NO. 1070 OF 2024

VILAS SAHEBRAO GAWALI

VERSUS

BANDU EKNATHRAO TAKTE AND ANOTHER

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Advocate for the Petitioner : Mr. Akshay S. Tilve

Advocate for Respondent No.1 : Mr. B. S. Pande

APP for Respondent No.2 /State : Smt. A. S. Deshmukh

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CORAM : KISHORE C. SANT, J.

DATE : 12.06.2025

PER COURT :

1. Heard the learned counsel for the petitioner, learned counsel for respondent No.1 and learned APP for respondent/State.

2. The petitioner has challenged the order passed by the learned Judicial Magistrate First Class rejecting applications below Exhibit 150 and 151 in S.C.C. No. 593 of 2003. The accused is facing trial under Section 138 of the Negotiable Instruments Act. He was earlier convicted by the learned J.M.F.C., he filed an appeal. In the appeal, the matter was remanded for direction to give opportunity to the petitioner to give defence evidence. Later on, the petitioner filed an application for calling Post-Master and one Tahsildar. Though the earlier application

was filed and allowed, he could not produce said witnesses. He wants to examine the Post-Master on the aspect of service of notice on accused. It is recorded that the Post-Master has informed that such information is not available now after lapse of time. The learned trial Judge thus also observed that if the documents are not available, no purpose would be served by allowing application. The other witness is a Tahsildar. The petitioner wants to examine the Tahsildar on the point of business of the complainant, as it is the case of the complainant that he runs a bricks business and whether he is in possession of the license. The learned Magistrate however rejected the application. The learned Advocate submits that the order deserves to be quashed and set aside by giving chance to lead evidence in defence.

3. The learned Advocate for the respondent opposes his submission. He submits that the trial Court has rightly passed the order. The filing of such an application is only an attempt to prolong the trial.

4. The Court has held that no purpose would be served by allowing the application Exhibit 150. The trial Court has rightly considered all the aspects and has passed the impugned order. The trial is pending since 2003. The application is filed for the first time in the year 2024

that too after remanding of the matter from the appellate Court. Even if the application is allowed, no purpose would be served. The application is, therefore, dismissed. The order is rightly passed by the learned J.M.F.C., no illegality or perversity to keep this writ petition pending. This Court thus finds that Writ Petition deserves to be dismissed.

5. The Criminal Writ Petition is, therefore, dismissed.

6. The trial Court to expedite and dispose of the trial within a period of three months from today.

**(KISHORE C. SANT)
JUDGE**

shp