



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3816 OF 2025

DHANANJAY PRALHAD MANE
VERSUS
JAIBHAWANI SAHKARI SAKHAR KARKHANA LTD THROUGH
MANAGING DIRECTOR

Advocate for Applicant : Mr. U. M. Indani

CORAM : SACHIN S. DESHMUKH, J.
Reserved on : 16th October, 2025
Pronounced on : 24th November, 2025

ORDER :-

1. The applicant raises an exception to the order dated 11.08.2025 rendered by the learned Judicial Magistrate First Class, Georai, below Exh. 162 in Summary Criminal Case No. 233 of 2012 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. The applicant / accused in aforesaid case presented an application below Exh. 162 for sending the disputed cheque to the handwriting expert for obtaining the opinion. The solitary ground raised by the applicant while presenting the application was that the handwriting on the disputed cheque was different from the

cheques produced on record by the witness i.e. Manager, DCC Bank, Beed.

3. The learned Magistrate rejected the application considering that the plea of cheque being written in different handwriting was raised for the first time during the course of evidence. Moreover, the signature on the disputed cheque is not denied by the applicant. As such, the application was presented with an intent to prolong the proceeding, rejected the same.

4. Hence, applicant approached this Court by way of present application under Article 482 of the Code of Criminal Procedure.

5. The learned counsel for applicant submits that the opinion of Handwriting Expert is necessary to rebut the presumption under Section 139 of the N.I. Act. It is further submitted that the disputed cheque was issued as a security and not for the discharge of legally enforceable debt. In absence of opinion of the Handwriting Expert with reference to the signature on the cheque would result into failure of justice. Hence, prayed to allow the application.

6. Having heard the learned counsel for applicant and upon perusal of entire record, it is evident that the plea of referring signature on the instrument to handwriting expert is raised for the first time during the cross-examination of the witness / Bank Manager. Admittedly, the matter is pending since 2012 while the application for sending the disputed cheque to the Handwriting Expert is presented in 2024. Thus, it is evident that the application is presented with intent to protract the proceeding.

7. It is well settled law that the once the signature on the cheque in question is admitted, presumptions under the NI Act albeit rebuttable rises in favour of the complainant. Hence, it is for the accused to rebut such presumptions by leading appropriate defence evidence and the Court is not expected to assist the accused to collect evidence.

8. Thus, no error could be noted in the order rendered by the learned Magistrate to constitute abuse of process of law. As such, same does not warrant interference.

9. The application *sans* merits and accordingly, the same is **dismissed**.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi