



Judgment

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

CRIMINAL WRIT PETITION NOS. 435/2024 & 641/2025.

Ganpat Mahadeo Kapse,
Aged 58 years, Occupation Private,
resident of Dhulas Layout, Mahadula
Koradi, Tahsil Kamptee,
District Nagpur.

... **PETITIONER.**

VERSUS

Rajiv Bhupendrasingh Siddhra,
Aged 54 years, Occupation – Private,
Resident of Ashok Tower, Kadbi
Chowk, Kamptee Road, P.S.Pachpaoli,
Nagpur.

... **RESPONDENT.**

Mr. p. Gode, Advocate for the Petitioner.
Mr. A. Gabhne, Advocate for the Respondent.

CORAM : M.M. NERLIKAR, J.

DATE : DECEMBER 11, 2025.

ORAL JUDGMENT :

Heard. By consent of learned Counsel appearing for the

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parties, the matters are taken up for final disposal.

2. The 2nd Additional Chief Judicial Magistrate, Nagpur by order dated 17.12.2021 passed the following order :

*“(1) The application (Exh.127) is allowed.
(2) The disputed cheque (Exh.70), as well as document termed as mutual/cancellation of agreement dated 31.03.2004 (Exh.69) along with admitted signature of the accused/specimen signatures of the accused be sent to the Handwriting Expert/Institution (Name to be decided later-on hearing the concerned) for their comparison and opinion regarding authorship of signature/s in a sealed envelope.”*

3. So far as the disputed cheque (Exh.70) is concerned, those were referred to the handwriting expert and accordingly his opinion is received. However, so far as the document dated 31.03.2004 (Exh.69) is concerned, it is stated that it is not in the original form and therefore, the handwriting expert has refused to examine the photocopy of the said document.

4. As the petitioner is challenging the order dated

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06.02.2023 (in Writ Petition No.435/2024) and order dated 01.07.2025 (in Writ Petition No.641/2025), wherein the application filed by him came to be rejected. In this application the prayer to direct the complainant to produce the original document dated 31.03.2004, was rejected by the 19th Judicial Magistrate First Class, Special Court for 138 N.I. Act, Nagpur.

5. The learned Counsel appearing for the respondent submits that the original copy of the said document is with the file in Criminal Case No.1812/2005 (Rajiv Siddhra .vrs. Ganpat Kapse). That criminal case was concluded and the accused therein came to be acquitted. It is submitted by the learned Counsel for the respondent that an Appeal was preferred by the complainant before this Court, which culminated into conviction of the accused. This conviction is upheld by the Hon'ble Supreme Court. He further submits that said document is with the record and proceedings (R & P) with the District and Sessions Court, Nagpur.

6. Accepting the statement, both the petitions can be
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disposed of since the original record is lying with the District and Sessions Court, Nagpur in the Criminal Case, which the learned Counsel again confirms that he has verified the same. The petitioner is at liberty to file an application before the learned Judicial Magistrate First Class, Nagpur where the S.C.C.No.3610/2006 is pending for getting the Record and Proceeding (R&P), and from the said records and proceedings, if the record in question is available, the same be forwarded to the handwriting expert as per the order dated 17.02.2021.

With these observations, Criminal Writ Petitions are disposed of.

JUDGE

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