

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 1486 OF 2025

Vitthal Punjaji Pawar (Deceased) Through ..Petitioner
Its Legal Heir Mangesh Vitthalrao Pawar

Versus

State of Maharashtra and Ors ...Respondents

Mr. Sanjeev B. Deore a/w Ms. Suchita J. Pawar, Mr. Arman
Ansari, for the Petitioner.

Mr. A. R. Metkari, APP for the Respondent-State.

Mr. Akshay Bankapur, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATE : 29th JANUARY 2026

ORAL ORDER:

1. Rule. Rule made returnable forthwith, and, with the consent of learned Counsel for the parties, heard finally.

2. The challenge in this petition is to an order dated 02nd August, 2024 whereby an application preferred by the first informant to examine the handwriting expert, came to be rejected.

3. In the said application, the first informant has also prayed for issuance of summons to the fingerprint expert, who had examined the thumb impressions of the first informant and Accused No. 1, on the sale deeds bearing No. 12001/2000, 12002/2000 and 12003/2000.

4. The learned Magistrate was persuaded to reject the application on the premise that, the adequate opportunity was granted to the prosecution to examine the witnesses. Thereafter, prosecution closed its evidence, the examination of the accused under Section 313 of the Code of Criminal Procedure has been complete and the matter was posted for advancing final arguments. Therefore, there was no substance in the prayer to recall the witnesses.

5. It appears that, the opinion of the handwriting expert was tendered. The accused-respondents admitted the said opinion in evidence and, therefore, it was marked in evidence. The handwriting expert has *inter alia* opined that, it was not possible to express any definite opinion “on the signatures marked Exhs. Q-1 to Q-15 in comparison with the red-enclosed specimen signatures marked Exhs. S-1 to S-6, for want of sufficient identifying characteristics.”

6. It appears, during the course of investigation, the samples of the thumb impressions of the parties were collected and forwarded for the opinion of the finger print expert. However, the report has not been received. Thus, the first informant also prayed that the opinion of the finger print expert be also called.

7. The respondents No. 2 to 4 are facing prosecution for the offences punishable under Section 420, 467, 468 and 471 r/w Section 34 of the Indian Penal Code, 1860. The gravamen of indictment against the Respondent Nos. 2 to 4 is that, the false and fabricated Sale Deeds in respect of land bearing Gat No. 46, situated at Shilapur, Nashik were created. The allegations are that the signatures and thumb marks on the sale deeds were forged. It is in that context, the specimen and disputed signatures and thumb marks were forwarded for the opinion of the handwriting and fingerprint expert. As the complicity of the accused hinges upon the question as to whether, the signatures and thumb marks on the sale deed are forged, the reports of the handwriting expert and the fingerprint expert appear to be relevant for the determination of the guilt of the accused.

8. It is true, the handwriting expert, in the opinion (Exh. 196) has expressed his inability to give a definite opinion for want of sufficient identifying characteristics. At the same time, it is necessary to note, in the Paragraph No. 3 of the said opinion, the expert has opined that, “the red-enclosed signatures marked Exhs. Q-1 to Q-15 are disagree in model and design with the red-enclosed specimen signatures marked Exhs. S-1 to S-36.”

9. In the face of the aforesaid opinion, the examination of the handwriting expert appears to be essential for a just decision of the case. The evidence of handwriting expert may equip the learned Magistrate to determine the question of alleged forgery of the documents in a just manner. Therefore, the prayer for the examination of the handwriting expert, appears sustainable.

10. So far as the prayer for calling the report of the fingerprint expert upon perusal of the material on record, it appears that, the report of finger print expert has not been filed before the Trial Court and when the Investigating Officer was directed to produce the same, the Investigating Officer has addressed communication to the Trial Court seeking specimen fingerprints and the related documents for again forwarding those documents to the fingerprint expert. At this fag end of the trial, there is no propriety in forwarding the specimen fingerprints and the related documents for now soliciting the opinion of the fingerprint expert, afresh.

11. In these circumstances, to advance the cause of substantive justice, the Court considers it appropriate to allow the petition to the extent of the prayer to examine the handwriting expert.

12. Hence, the following order:-

:: ORDER ::

- i) The petition thus stands partly allowed.
- ii) The impugned order to the extent it rejects the prayer to examine the handwriting expert who has given the opinion (Exh. 196), stands quashed and set aside.
- iii) The Trial Court is requested to summon the handwriting expert and examine him as a prosecution witness. After the handwriting expert is examined, the learned Magistrate shall record further examination of the accused under Section 313 of the Code of Criminal Procedure, 1973 and, thereafter, depending upon the willingness of the accused to lead evidence in defence, conclude the trial as expeditiously as possible.
- iv) The parties shall appear before the learned Magistrate on 12th February, 2026.
- v) Rule made absolute to the aforesaid extent.

No Costs.

[N. J. JAMADAR, J.]