

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.7171 of 2014

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ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner-Accused praying to quash the order dated 16.06.2014 in CrI.R.P.No.165 of 2014 passed by the learned Metropolitan Sessions Judge, City Criminal Court, Hyderabad confirming the dismissal order in CrI.M.P.No.152 of 2014 in C.C.No.425 of 2013 passed by the XXII Special Magistrate, Hyderabad.

2. Heard the learned counsel for the petitioner-accused so also the learned Public Prosecutor representing State-1st respondent before ordering notice to the 1st respondent/complainant and perused the material on record.

3. Undisputedly, the so called chits containing writings of the complainant-1st respondent, as per the accused, so confronted to him and exhibited in the trial during the course of examination of D.W.1 as Ex.D.1 (handwriting and signatures of the complainant). The petitioner/accused when want to send these writings to the Expert to know whether the cheque that passed on, is for chit transactions to serve as guarantee but not to discharge any debt; whether it is part of the discharge of any debt or not is to decide ultimately to appreciate the genuineness and otherwise with reference to the Expert opinion with reasons, from the right of the accused to seek for sending the documents to Expert as part of his said defence; when it is not even with the observation that the Court can compare to a naked eye from perusal under Section 73 of the Indian Evidence Act without any assistance of the Expert by comparison, the dismissal of the prayer for said purpose is not tenable. Having regard to the above both the Courts below went wrong in dismissing the application more particularly, from the expression of the Apex Court in **State(Delhi Admn) V. Pali Ram**^[1], that the Court is not an Expert where the Court

though compare, it must be with the assistance of the Expert opinion supported by the reasons within the scope of Section 73, 45 and 51 of the Indian Evidence Act,

4. Having regard to the above, Criminal Petition is **allowed** by directing the trial Court to obtain specimen signatures and writings of the complainant and send the Ex.D.1 along with specimen signatures/writings of the complainant and also the admitted available signatures of the complainant in vakalath, complaint and deposition of P.W.1 to handwriting Expert and after receiving of the opinion to dispose of the case on merits therefrom. Needless to say any of the observations made by the Courts below no way influence the mind of the trial Court for independent disposal of the case. The petitioner/accused is directed to deposit Rs.10,000/- before the trial Court, immediately within one week from the date of receipt of the order.

5. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date: 02.07.2015
Vvr

[\[1\]](#) [1979] 1 SCR 931