

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-16913-2015(O&M)

Date of decision : 21.05.2015

Sudarshan Kumar

.....Petitioner

Versus

Manish Manchanda

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? Yes
3. Whether the judgment should be reported in the Digest ? Yes

Present: Mr. Vaibhav Sehgal, Advocate for petitioner.

DARSHAN SINGH, J.

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (here-in-after called 'Cr.P.C.') for quashing the order dated 22.04.2015 passed by learned Judicial Magistrate First Class, Ludhiana in Criminal Complaint No.417/2 of 17.03.2011, whereby the application moved by the petitioner-accused for sending the cheques in question to the Director Forensic Laboratory has been dismissed.

2- The petitioner is facing the trial in a complaint filed by the

respondent under Section 138 of the Negotiable Instruments Act, 1881 (here-in-after called 'the Act') and Section 420 of the Indian Penal Code, 1860 (here-in-after called 'IPC'). At the stage of the defence evidence, he moved application for sending the cheques in question to the Director Forensic Laboratory for the purpose of determining the age of the writing in the body of the cheque in terms of the signature, amount in the words and figure for determining the age of the ink used for filling the same in the cheques in question as the stand of the petitioner is that the cheques in question were procured as a security and the same were issued in the year 2008 and have been misused in the year 2011.

3- Learned counsel for the petitioner contended that the cheques in question have been fabricated. These blank cheques were issued in the year 2008 for the purpose of security for the loan advanced to Harjinder Kumar, the brother of the petitioner. These cheques were later on manipulated in the year 2011 by filling in the body of the cheque. He contended that the determination of the age of the writing/ink used to fill the body of the cheque is essential for the just decision of the case and the application of the petitioner has been wrongly dismissed by the learned Magistrate. To support his contentions, he relied upon case **T. Nagappa Vs. Y.R. Muralidhar, 2008(3) RCR (Criminal) 926 (SC)**.

4- I have duly considered the aforesaid contentions.

5- As per the contentions raised by learned counsel for the petitioner, it is alleged that the cheques in question have been manipulated later on by filling in the necessary particulars in the body of

the cheques. He has pleaded that the cheques in question should be sent to the Forensic Science Laboratory to determine the age of the ink used to fill in the necessary particulars in the body of the cheques. But in my opinion, it is not possible for a document expert to give any definite opinion about the age of the ink as it is not known in which year the ink used to write the document was manufactured. The Constitutional Bench of Hon'ble Supreme Court in case **Union of India Vs. Jyoti Prakash Mitter, AIR 1971 SC 1093**, elaborately dealt with this issue and laid down as under :-

“10. After consultations between the Ministry of Home Affairs and the Ministry of Law, the Home Ministry sent certain old writings of the year 1904, 1949, 1950 and 1959, and requested the Director to determine the age of the writing of the disputed horoscope and marginal note in the almanac by comparison. The Director on April 17, 1965 wrote that it "was impossible to give any definite opinion by such comparisons particularly when the comparison writings were not made with the same ink on similar paper and not stored under the same conditions as the documents under examination", and that it "will not be possible for a document expert, however reputed he might be, anywhere in the world, to give any definite opinion on the probable date of the horoscope and the ink writing in the margin of the almanac".”

6- This Court in case **Yash Pal Vs. Kartar Singh, 2003 (3) RCR (Civil) 701**, has also laid down that expert opinion to check the age of ink cannot help to determine the date of writing of the document as the ink used in the writing of the document may have been manufactured years earlier.

7- In case **Tarsem Singh Vs. Ravinder Singh 2014(11) RCR (Civil) 2112**, this Court has again reiterated that there is no scientific method available for determine the age of the ink. In case **S. Gopal Vs. D. Balachandran 2008(2) RCR (Criminal) 466**, the Hon'ble Madras High Court has taken the same view and laid down that the age of the ink cannot be determined by an expert with scientific accuracy. The same legal position has been reiterated in cases **R. Dennis Raja Vs. T. Subbiah 2012 (3) RCR (Criminal) 212**, **K. Vaiavan Vs. Selvaraj 2012(4) RCR (Criminal) 942** and **Vinod Maroti Vs. Jitendra 2015 ACD 198 : Law Finder Doc Id # 529385**.

8- Thus, in view of the consistent rule of law laid down in the cases referred above, it will not be possible for an expert to give any definite opinion on the age of the ink as there is no accurate scientific method to determine the age of the ink. Cases **T. Nagappa Vs. Y.R. Muralidhar** (supra) relied upon by learned counsel for the petitioner is of no help to him in view of the judgment of the Constitutional Bench of Hon'ble Apex Court in **Union of India Vs. Jyoti Prakash Mitter** (supra). Consequently, the impugned order passed by the learned Judicial Magistrate First Class, Ludhiana does not suffer from any illegality.

9- Resultantly, the present petition is without any merits and the same is hereby dismissed.

21.05.2015

sunil yadav

**(DARSHAN SINGH)
JUDGE**