

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

**CRM-M No. 17337 of 2015 (O&M)
Date of decision: 25.05.2015.**

Varinder Kumar @ Sethi

..... Petitioner.

Versus

Prabhjot Singh

..... Respondent.

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

Present:- Mr. Kiran Kumar, Advocate, for the petitioner.

NAVITA SINGH, J. (ORAL)

In the application filed before the trial Court, the petitioner mentioned that he had denied his signatures on the cheque in question, but his plea was that the cheque was misused as it was filled by the complainant on his own. It was mentioned that the application earlier filed by the petitioner for examining handwriting expert was dismissed with the observation that he had nowhere denied his signatures on the cheque which was pleaded to be misused. Again, a similar application was filed without challenging the previous order and without there being any fresh ground and the same was dismissed.

Counsel for the petitioner, however, submits that in the statement under Section 313 of the Code of Criminal Procedure the petitioner denied his signatures. However, a copy of said statement is on record where the petitioner simply stated that the cheque book was lying with the complainant and he misused the cheque. There is no specific

denial about the signatures.

Simply by mentioning in the statement under Section 313 of the Code of Criminal Procedure that the cheque was misused, it would not mean that the signatures were specifically denied.

Reliance is placed by counsel for the petitioner on **T. Nagappa versus Y.R. Muralidhar, 2008 (3) R.C.R. (Criminal) 926 (SC)** and **Kalyani Baskar versus M.S. Sampooram, 2007 (1) R.C.R. (Criminal) 311 (SC)**.

In **T. Nagappa's** case (supra), the request for examining the expert was rejected in view of the presumption under Section 139 of the Negotiable Instruments Act. In the other case, the application was rejected on the ground that the person or witness to be summoned was not named in the application. In that case, the accused had categorically denied his signatures.

The admitted signatures of the petitioner are available on the file of the trial Court and the Court is the best expert to make comparison of the signatures. Also, it is a matter of experience that the handwriting expert always depose in favour of the person who engages him/her. Where both the parties engage separate experts, both depose in favour of the party by whom they are engaged and in that event, it is the Court who has to decide about the signatures.

In case of thumb impressions, the matter is different because the Court cannot compare the disputed thumb impressions with the standard ones.

For the reasons given above and the reason that the second application without change in the circumstance could not have been filed, the petition is dismissed.

(NAVITA SINGH)
JUDGE

25.05.2015
Ramesh