

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

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Crl. Misc. No. M 28370 of 2013

Date of decision: 16.01.2015

*Vivek Khullar*

*..... Petitioner*

*Versus*

*Sandeep Singh*

*.....Respondent*

**Coram: Hon'ble Mrs. Justice Rekha Mittal**

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Present: Mr. Om Pal Sharma, Advocate  
for the petitioner

Mr. Naveen Sharma, Advocate  
for the respondent

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

**Rekha Mittal, J.**

By invoking the provisions of Section 482 of the Code of Criminal Procedure (in short, 'Cr.P.C'), the petitioner has assailed the orders dated 07.09.2012 (Annexure P2), dated 16.11.2012 (Annexure P4) passed by the Judicial Magistrate Ist Class, Ludhiana and the order dated 29.07.2013 (Annexure P3) passed by the Additional Sessions Judge, Ludhiana whereby the prayer of the petitioner for permitting him to examine document and Hand Writing Expert by way of defence has been disallowed.

The respondent/complainant has filed the complaint under

Section 138 of the Negotiable Instruments Act, 1881, on the premise that the cheque in question issued by the petitioner/accused for discharging his liability got dishonoured on its presentation to the Bank and the petitioner failed to pay the cheque amount despite receipt of the legal notice. The complainant/respondent appeared in the witness box to prove his case and after leading evidence, closed the evidence. Statement of the accused under Section 313 Cr.P.C. was recorded. The petitioner examined evidence in defence. He filed an application dated 28.05.2012, permitting the Hand Writing Expert of the petitioner/accused to inspect the file and take photographs of the writing on the cheque in question, which was dismissed by the Judicial Magistrate Ist Class, Ludhiana vide impugned order dated 07.09.2012. The order was challenged before the revisional Court, which did not find favour with the Court of Additional Sessions Judge, Ludhiana and was eventually dismissed vide order dated 29.07.2013. During pendency of the revision, the petitioner filed an application under Section 311 Cr.P.C allowing him to examine the Hand Writing Expert, which also came to be dismissed by the trial Court vide order dated 16.11.2012 and dismissal of the said application was duly noted by the revisional Court while disposing of the revision petition against order dated 07.09.2012.

Counsel for the petitioner contends that during cross examination of the respondent/complainant, he has deposed that the cheque in question was filled in by the petitioner in his own hand writing, therefore, the Hand Writing Expert needs to be examined to give his expert opinion in regard to the writing in the blanks of the cheque after comparative study with the standard hand writing of the petitioner. It is further submitted that a serious prejudice would be caused to the petitioner, in case he is not

allowed to lead his evidence in defence, which is *sine quo non* of a fair trial.

Counsel for the respondent has urged that the petitioner has admitted his signatures on the cheque in question and has raised plea that it was issued by way of security. The petitioner could well exercise his right to be examined as a defence witness by invoking the provisions of Section 315 Cr.P.C. in order to counter plea of the complainant that blanks in the cheque were filled in by the petitioner himself. The petitioner made repeated applications for the same relief with a measure to prolong conclusion of the trial proceedings and escape his criminal liability.

I have heard counsel for the parties and perused the records.

The first application dated 28.05.2012 (Annexure P5) was submitted by the petitioner for allowing the handwriting expert to inspect the file and take photographs of the writing on the cheque in question. The plea in the application is that the cheque is forged and fabricated one and in order to give opinion about the writing over the cheque in question, the expert wants to inspect the file and take photographs of the hand writing. Nothing has been mentioned in the application as to with whose hand writing, the writing on the cheque in dispute is to be compared by the Hand Writing Expert nor does it appear that the petitioner moved any application for seeking simple hand writing of the complainant/respondent. Learned trial Court has rightly held in the order dated 07.09.2012 that the application is quite vague as the applicant had not mentioned as to by what means he intends to get the cheque examined. Similarly, the application filed by the petitioner under Section 311 Cr.P.C does not clearly indicate as to the purpose for which the Hand Writing Expert needs to be examined and how his examination is necessary for just decision. I do not find any error much

less illegality in the impugned orders as would call for intervention in exercise of inherent jurisdiction under Section 482 Cr.P.C.

Dismissed.

(Rekha Mittal)  
Judge

16.01.2015  
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