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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: August 14, 2015

+ CRL.M.C.3290/2015 &CRL.M.As.11714-15/2015

JAGDISH SINGHPetitioner

Through: Mr. S.C.Tomar, Advocate

versus

STATE & ANR. Respondents

Through: Mr. Arun Kumar Sharma,
Additional Public Prosecutor for
State with S/SI Seema

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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In proceedings under Section 138 of *Negotiable Instruments Act, 1881* impugned order of 30th June, 2015 permits petitioner to obtain handwriting expert opinion on the cheque in question and the deposit slip by observing that such expert opinion is essential for the just decision of the case.

The challenge to the impugned order in this petition is on the ground that once the signatures on the cheque in question are admitted then there is no occasion for permitting a scientific examination of the cheque in question because the payee of the cheque gets the implied authority to fill the particulars in the cheque. At the hearing, it was put to

learned counsel for petitioner whether it is admitted that the cheque in question was given blank to petitioner and the instant response of learned counsel for petitioner was in the negative. During the course of hearing, reliance was placed by learned counsel for petitioner upon decisions in *A.R.Banerjee v. State & Anr.* 2014 (214) DLT 325, *Nisha Gupta v. Ram Kishan Gupta* 2014 (210) DLT 710, *Rangappa v. Sri Mohan* AIR 2010 SC 1898, *L.C.Goyal v. Mrs. Suresh Joshi & Ors.* AIR 1999 SC 2222 and *Ravi Chopra v. State & Anr.* 2009 (1) ALD (Cri.) 13 to submit that the opinion of handwriting expert is necessary only where the signatures of the drawer are disputed because there are numerous situations where handwriting, the ink on the cheque and the signatures thereon may differ.

Upon hearing and on perusal of the impugned order, material on record and the decisions cited, I find that admission of signatures on the cheque in question only gives rise to a rebuttal of presumption and the said presumption can be rebutted by resorting to scientific evidence as has been permitted vide impugned order.

In the considered opinion of this Court, there is no illegality or infirmity in the impugned order. The petition and applications are dismissed while refraining to comment upon merits of this case, lest it may prejudice either side at trial.

(SUNIL GAUR)
JUDGE

AUGUST 14, 2015

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