

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

CRM No.M-35632 of 2016 (O&M)

Date of Decision:- October 04, 2016

Ruchin Jindal

...Petitioner

VERSUS

Ravi Verma

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Akshay Kumar Jindal, Advocate
for the petitioner.

INDERJIT SINGH, J.

The petitioner has filed this petition under Section 482 Cr.P.C. against respondent Ravi Verma, for quashing of judgment dated 31.08.2016 passed by learned Addl. Sessions Judge, Ludhiana whereby the revision petition filed by the respondent against the order dated 13.07.2016 passed by learned Judicial Magistrate Ist Class, Ludhiana, dismissing the application filed by the respondent, was allowed.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, I find that Ruchin Jindal filed a complainat against Ravi Verma under Section 138 of the Negotiable Instruments Act. During the trial, an application was moved by the accused for allowing Sh.Kranti K. Sharma, Handwriting and Finger Prints Expert to take

photographs of signatures of accused for the purpose of comparison of the

signatures of the accused on the bills and power of attorney produced on the record. It has been averred by learned counsel for the applicant before the trial Court that Expert be allowed to take photographs of accused's signatures on the bills, power of attorney Ex.C5 for the purpose of comparison with his standard signatures.

Learned JMIC, Ludhiana, dismissed the application by holding that since applicant has not denied his signatures on the cheque in dispute and Ex.C5, therefore, the burden of proof is still upon him to rebut the presumption. It is also held in the order dated 13.07.2016 that he cannot have recourse for creating evidence in his favour by filing frivolous applications like the present one.

A revision was filed against the above-said order by the accused and learned Addl. Sessions Judge, Ludhiana, vide impugned judgment dated 31.08.2016, set aside the order dated 13.07.2016 and allowed the application filed by the accused after discussing the facts and law in detail.

Learned Addl. Sessions Judge, Ludhiana held that the complainant proved cheque and an undertaking by the accused Ex.C5, whereby he admitted his liability to pay the amounts and issuance of cheques. Thereafter, the complainant moved an application under Section 311 Cr.P.C. and he proved on record copies of bills against which the goods were supplied to the accused. Some of these bills bear signatures of accused or his representatives, while some of the bills are not signed by the accused or his representatives. In the statement under Section 313 Cr.P.C., the accused has not disputed his signatures on the cheque and undertaking

Ex.C5 but he has alleged that these were taken under police pressure. He

has, however, denied if he or his representatives signed any of the bills and has also disputed the signatures on these bills.

Keeping in view the above facts, I find that for rebutting the presumption under Section 139 of the Negotiable Instruments Act, this evidence which the accused wants to produce by examining Handwriting and Finger Prints Expert by taking photographs of the signatures, is essential because if it is proved that bills do not bear signatures of accused, it may lead to prove the defence of the accused.

The impugned judgment dated 31.08.2016 passed by learned Addl. Sessions Judge, Ludhiana, allowing the application moved by the accused to examine the Handwriting and Finger Prints Expert is correct and as per law. Otherwise also, the accused has the right to rebut the evidence produced by the complainant under Section 311 Cr.P.C. No illegality has been committed by learned Addl. Sessions Judge, Ludhiana, while passing the impugned judgment dated 31.08.2016. In no way, it can be held that the impugned judgment passed by learned Addl. Sessions Judge, Ludhiana, is abuse of process of law and amounts to miscarriage of justice.

Therefore, finding no merit in the present petition, the same is dismissed.

October 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No