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

CRM-M No.4001-2015 (O&M)

Date of decision:22.07.2016

Kewal Sharma

... Petitioner

versus

M/s Ajay Goel & Sons

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Naveen Sharma, Advocate,
for the petitioner.

Mr. Jagram Singh Cooner, Advocate,
for the respondent.

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

HARI PAL VERMA, J.(Oral)

The petitioner-Kewal Sharma son of Khushi Ram Sharma, Prop. M/s Sharma Cement Corporation, Samrala Chowk, Bye Pass, Link Road, Ludhiana, has filed the present petition under Section 482 Cr.P.C. impugning the order dated 29.01.2015 whereby the evidence of the petitioner has been closed by an order in a pending complaint case filed under Section 138 of Negotiable Instruments Act by the respondent-complainant.

Learned counsel for the petitioner states that during the pendency of the complaint filed by the respondent, the petitioner has moved an application for examination of an handwriting expert to examine the handwriting on cheque and letter pad as put forward by the respondent-

complainant through his evidence as Ex.C5 and Ex.C4 respectively.

Learned Magistrate vide order dated 29.01.2015 has dismissed the said application by observing that the application for getting handwriting and fingerprint expert examined was dismissed by the Court vide order dated 23.01.2015 and petitioner accused intends to challenge the order dated 23.01.2015 by way of revision petition before Hon'ble High Court.

The counsel for the petitioner further states that the order dated 23.01.2015 nowhere decides the application for getting the handwriting and fingerprint expert examined. Therefore, there was no occasion for the petitioner to file a revision petition by impugning the order dated 23.01.2015. He states that in order to proper adjudication of the matter, the application (Annexure P-2) seeking examination of the handwriting and fingerprint expert is necessary and he undertakes that in case one more opportunity is granted, he will conclude the evidence on the same day. He submits that he be given only one effective opportunity to examine the handwriting and fingerprint expert.

Learned counsel for the respondent states that the petitioner being accused is determined to delay the proceedings on one pretext or the other. He was given ample opportunities but he failed to examine the handwriting and fingerprint expert. Therefore, the present petition deserves to be dismissed being an attempt to delay the proceedings.

I have heard the counsel for the parties.

The order dated 23.01.2015 passed by learned Judicial Magistrate Ist Class reads as under:-

“Present: Complainant with counsel
Accused on bail with counsel.

On request adjourned to 29.01.2015 for DWs
otherwise for arguments.

Sd/-
Nirmala Devi/JMIC/23.01.2015”

It is not disputed that the order dated 23.01.2015 passed by the learned Magistrate nowhere decides the application for getting handwriting and fingerprint expert examined. Therefore, the observation of the learned trial Court that the petitioner wanted to file revision petition against the order dated 23.01.2015 cannot be accepted.

Accordingly, the order dated 29.01.2015 passed by learned Magistrate is set aside and the petitioner is granted one effective opportunity to get the handwriting and fingerprint expert examined.

The petition stand disposed of accordingly.

CRM No.15105 of 2016

The application is for recalling/modification of order dated 19.02.2016 passed by this Court.

Since the main case itself is disposed of, the present application has become infructuous and deserves to be disposed of as such.

Application is disposed of as infructuous.

(HARI PAL VERMA)
JUDGE

22.07.2016
sanjeev