

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 341 of 2017

Iswar Barle S/o Malikram Aged About 56 Years R/o Sundar Vihar Colony, Kurud Road, Industrial Area Bhilai, Police Station Jamul, Tahsil & District Durg, Chhattisgarh.

---- Petitioner

Versus

1. Nanku Singh S/o Late Ram Pratap Aged About 40 Years R/o E.W.S 1331, M.P.H.B., Bhilai , Police Station Jamul, Tahsil & District Durg, Chhattisgarh.
2. State Of Chhattisgarh Through District Magistrate , District Durg, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. B.P. Singh, Advocate
For State	:	Mr. Satish Gupta, G.A., on advance copy

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/03/2017

Heard.

1. This petition under Section 482 of Cr.P.C. arises out of order dated 23.02.2017 by which, the revision against an order of the trial Court passed on 20.12.2016 seeking more time to produce the certificate of the handwriting expert has been rejected.
2. Learned counsel for the petitioner submits that the petitioner is facing trial as an accused on the allegation of commission of offence under Section 138 of the Negotiable Instruments Act. In exercise of his right of defence, the petitioner sought examination of handwriting appearing in the disputed cheque by a handwriting expert. The complainant, however, did not produce the original cheque for a long time, therefore, the order could not be executed. He submits that though the Court had granted the petitioner some time to produce the certificate of the handwriting expert as to whether a photocopy of the cheque could be made a basis to give an opinion by the handwriting expert, for reasons beyond petitioner's control,

such certificate could not be produced. He submits that if this opportunity is not afforded to the petitioner, he will be seriously prejudiced in his defence.

3. After going through the impugned order, I find that way back in the year 2010, the Court had allowed the petitioner's application for getting the disputed cheque examined, however, when the original cheque was not produced by the complainant on the statement that the same is missing, the petitioner was granted time by the Court to submit a certificate of any handwriting expert whether photocopy could be used for the purposes of examination and giving an opinion by the handwriting expert. The petitioner, however, could not produce any such certificate.

4. In view of the above, I do not think that the petitioner has been deprived of any opportunity to submit certificate. It is a different matter that the petitioner will have all the opportunities to take defence appropriately available to him under the law on account of non-production of the original cheque by the complainant and in so far as that defence is concerned, that shall always be open for the petitioner.

5. With the said observation, the petition is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Rekha