

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

**CRM-M-22144 of 2015
Date of decision:-10.8.2017**

Neelam Bahri

...Petitioner

Versus

Vikas Dutt

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Sandeep Arora, Advocate
for the petitioner.

None for respondent.

H.S. MADAAN, J.(ORAL)

This is a petition under Section 482 Cr.P.C. filed by petitioner - Neelam Bahri, who is an accused in a criminal complaint titled Vikas Dutt Versus Neelam Bahri under Section 138 of the Negotiable Instruments Act pending in the Court of Judicial Magistrate Ist Class, Jalandhar. The petitioner is aggrieved by order dated 12.5.2015, dismissing her application under Section 311-A Cr.P.C. seeking appointment of handwriting expert for comparing the handwriting of the petitioner with the handwriting on the cheque in question.

Notice of this petition was given to respondent, who was served but did not put in appearance.

I have heard learned counsel for the petitioner besides

going through the record and I find that the order declining the application is not sustainable.

It is submitted by learned counsel for the petitioner – accused that as per the case of petitioner – accused, she had never issued cheque in question and rather it was misused and forged by complainant in connivance with one Hitesh Dhir, since husband of the accused had financial dealings with the father of Hitesh Dhir and that cheque in question was signed with blue ink pen whereas the body of the cheque was written with black ink pen and that too the upper part of the cheque was written with different black ink pen and the middle part/amount in words was written with different black ink pen and this fact has been so admitted by the complainant in his cross examination.

It being so, the trial Court should have allowed the accused to examine handwriting expert as prayed for. Therefore, the order under challenge is unsustainable in the eyes of law for the reason that the trial Court should have allowed the application under Section 311-A Cr.P.C. but wrongly declined it which is detrimental to the interest of the accused in those proceedings. Therefore, order under dated 12.5.2015 passed by Judicial Magistrate Ist Class, Jalandhar is set aside and the petitioner is allowed to examine handwriting expert in her defence evidence. It shall be responsibility of the petitioner to cause appearance of the handwriting expert in the Court for the purpose of taking photographs etc. of the documents and then on receipt of report to get his statement recorded. Of course, the complainant would be entitled to cross-examine the said expert. The entire exercise of examining the handwriting expert be completed within a period of one month from the

date of receipt of copy of this order.

In that way, the petition stands allowed.

10.8.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No