

CRM-M-10161 of 2014 (O&M)

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

CRM-M-10161 of 2014 (O&M)

Date of Decision: 30.07.2018

Premo Devi and another

....Petitioners

Versus

M/s Ramesh Kumar Lalit Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Akshay Jindal, Advocate, for the petitioners.

Mr. J.S. Virk, Advocate, for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C. prayer has been made for setting aside order dated 21.02.2014 (Annexure P-4) of the trial Court, whereby application of petitioner No.1 for examination of handwriting and fingerprint expert to get compared her signatures on the cheque in question, has been dismissed.

In nutshell, respondent filed a complaint against the petitioners under Section 138 of the Negotiable Instruments Act (for short the 'Act') for dis-honouring of cheque of ₹2.00 lakh issued by the petitioners. After closure of the evidence by the respondent, petitioner in their defence moved application for examination of handwriting and fingerprint expert for comparison of signatures of petitioner No.1 on the cheque in question, which has been dismissed by the trial court vide impugned order dated 21.02.2014, observing that the cheque in question was returned by the bank to the respondent on the ground of “insufficiency of funds” and not on account of forged signatures. Had there been any difference in the signatures of petitioner No.1 on the cheque in question, in that eventuality,

CRM-M-10161 of 2014 (O&M)

the bank must have returned the cheque with the remarks “difference in signature”.

Learned counsel for the petitioner places reliance on the judgments in *Kalyani Baskar v. M.S. Sampooram*, 2007(1) R.C.R. (Criminal) 311 (S.C.) and *Natasha Singh v. CBI (State)*, 2013(3) R.C.R. (Criminal) 368, to contend that the trial Court could not have dismissed the application of the petitioners, because adducing evidence in their defence is a valuable right of the petitioners. Denial of the same means the denial of fair trial.

On the other hand, learned counsel for the respondent-complainant vehemently opposed the above submissions of learned counsel for the petitioners.

Having considered the submissions made by both the sides, I find the instant petition completely devoid of any merit for the reasons to follow.

Judicial note of the fact is taken that every handwriting and fingerprint expert gives opinion only in favour of the party, who engages him. No case has come to the notice of this court as yet in which any handwriting and fingerprint expert has given any contrary opinion against his client, who engages him. That apart, the science qua handwriting is not perfect one. Expert versus Expert from both the sides make the things meaningless. No help is ever provided to the Court in effective adjudication, when there are handwriting opinions from both the sides contrary to each other. In such a situation, the Court has to form its own opinion after comparing the disputed signatures with the standard one.

In the instant case, if the petitioners are permitted to examine

handwriting and fingerprint expert, in that eventuality, the respondent-complainant has to be provided opportunity to rebut the same by also

CRM-M-10161 of 2014 (O&M)

examining some handwriting and fingerprint expert, which would be a futile exercise for both the sides.

More so, in a case under Section 138 of the Act, the complainant has to prove his case. In the instant case, in case, the respondent-complainant would not be able to prove his case, in that eventuality, he should be non-suited inasmuch as entire burden and then onus lies upon him.

The facts and circumstances of the authorities relied upon by learned counsel for the petitioners are altogether distinguishable from the facts and circumstances of the present case, therefore, no benefit of the same can be given to the petitioners.

In view of discussion made above, petition is dismissed.

July 30, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No