

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

CRM-M-19635 of 2017
Date of Decision: 11.09.2018

L.S. Thakur

....Petitioner

Versus

M/s Apex Steel & Tubes

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Shiv Kumar, Advocate, for the petitioner.

Mr. Gorav Kathuria, Advocate, for the respondent.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C, prayer has been made for quashing order dated 11.05.2017 (Annexure P-4) of learned Additional Sessions Judge, Faridabad, whereby application of the petitioner to lead additional evidence and send disputed cheque to FSL authorities for comparison of his signatures on the same, was dismissed.

In nutshell, the petitioner after holding trial, vide judgment of conviction dated 20.11.2014 and order of sentence dated 26.11.2014 was held guilty under Section 138 of Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for a period of 6 months and pay compensation of Rs.9,00,000/- to the respondent. In default thereof, to further undergo simple imprisonment for a period of 3 months.

Being dissatisfied from the aforesaid judgment and order, the petitioner preferred appeal. During its pendency, after around two years, the petitioner moved an application for leading additional evidence and sending

the cheque in question to the FSL authorities for comparison of his signatures on the same, which has been dismissed by the First Appellate Court vide impugned order.

Learned counsel for the petitioner *inter alia* contends that trial Court, illegally rejecting the report of handwriting and fingerprint expert produced by the petitioner and forming opinion that cheque in question bore signatures of the petitioner wrongly convicted him. Therefore, it was necessary for the Ist Appellate Court to get compared the signatures of the petitioner on the cheque in question through a Government agency. In support of his arguments, learned counsel for the petitioner has relied upon the decision of the Hon'ble Supreme Court in Ajay Kumar Parmar Vs. State of Rajasthan, 2012(4) RCR (Criminal) 617.

On the other hand, learned counsel for the respondent-complainant pleaded the legality and validity of the impugned order.

Having given thoughtful consideration to the submissions made by both the sides, I find that the instant petition is completely devoid of any merit for the reasons to follow:-

There is plethora of rulings of Apex Court as well as of various High Courts that the Court is the best expert to compare disputed handwriting and signatures with admitted one. In *Ajay Kumar Parmar's case (supra)*, it has also been held that where there is no expert opinion to assist the Court in respect of handwriting available, in that eventuality, the Court may apply its own observation by comparing signatures or handwriting for providing a decisive weight or inference to its decision. In the instant case, the petitioner has examined hand-writing and fingerprint

expert, namely; DW-2 RS Upadhyay, who proved his report Ex. D-8. However, the learned trial Court discarded the testimony of this witness and his report report Ex. D-8, on self comparison of disputed signatures of the petitioner with his specimen signatures and formed opinion that the same were identical to each other. Above that, the trial Court also mentioned various other observations and reasons while forming opinion that the cheque in question bears the signatures of the petitioner only.

The petitioner moved application for leading additional evidence after two years of filing of appeal against the judgment of his conviction dated 20.11.2014 and order of sentence dated 26.11.2014 (Annexure P-1) which shows his callous attitude and intention to delay the decision of his appeal for the reasons best known to him. The petitioner through his counsel put a specific suggestion to respondent-complainant that cheque in question was issued against the present invoices which amounted to his admission about the issuance of cheque in question by him. There is no necessity to send the cheque in question for comparison of his signatures on the same to FSL authorities, inasmuch as the First Appellate Court, itself can compare the signatures of the petitioner on the cheque in question with his admitted signatures to verify as to whether the observations of the trial Court qua the signatures of the petitioner are correct.

Considering the above factual aspect, this Court is not inclined to interfere with the findings of the Ist Appellate Court, that “the petitioner wants to fill up lacunae by filing the application for leading additional evidence which is nothing, but an effort to prolong the decision of the case”.

I have gone through the impugned order and found no illegality in

the same. The petition is liable to be dismissed with exemplary costs being frivolous and for wasting precious time of the Court, but in the interest of justice, the same is not done.

Dismissed.

11.09.2018
monika/rishu

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No