

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

CRM-M-24996-2018 (O&M)

Date of Decision:-2.7.2018

Sheetal Verma

... Petitioner

Versus

Om Parkash

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. H.S. Brar, Advocate for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

The petitioner assails order dated 17.5.2018 (Annexure P-4) passed by learned Additional Chief Judicial Magistrate, Sangrur, whereby her application for examining an expert, has been declined.

A few facts necessary to notice for disposal of this petition are that the petitioner is arrayed as an accused in a complaint filed against her under Section 138 of Negotiable Instruments Act on the ground that a cheque issued by the petitioner was dishonoured on the ground that the signatures of the petitioner differ with the signatures available with the bank.

The complainant during the course of his evidence examined a handwriting expert, who gave an opinion to the effect that in fact the signatures as affixed on the cheque in question were in the hand of the accused.

On the other hand, the accused in his defence also examined another handwriting expert, who gave opinion in his favour to the effect that the signatures on the disputed cheque had not been affixed by the petitioner.

Subsequently, the petitioner moved an application before the trial Court seeking permission to get the disputed signatures examined from State Laboratory i.e. Forensic Science Laboratory, which has been declined by the learned Additional Chief Judicial Magistrate, Sangrur vide impugned order dated 17.5.2018 (Annexure P-4) by observing as follows:-

“When the opinion of two different experts are available on the file then there is no necessity to get examine the signature from any Forensic Science Laboratory. Moreover, how to appreciate their reports the same is to decided by the Court. Mere on the ground that both the parties have examined their experts who have given adverse opinion, no justification has been made out to further get the comparison of the disputed signatures from Forensic Science Laboratory. Then, there will be no end. Moreover, the case is fixed for defence evidence and the applicant/accused stated that he has not examine any other defence witness. It seems that the present application has been filed just to delay the proceedings of the present case by sending the signatures to the Forensic Science Laboratory, it will amounts to the re-opening of the matter in dispute.”

The learned counsel, while assailing the impugned order, has submitted that the accused has a fundamental right to lead evidence in his defence and that his defence cannot be scuttled short merely on the ground that the same would delay in conclusion of trial. The learned counsel places reliance upon G.Someshwar Rao Versus Samineni Nageshwar Rao and another, 2009(3) R.C.R. (Criminal) 912, T. Nagappa Versus Y.R. Muralidhar, 2008(3) R.C.R. (Criminal) 926, Kalyani Baskar Versus M.S. Sampooram, R.C.R. (Criminal) 311 and Vinod Kumar @ Vinod Kumar Handa Versus State Govt. of N.C.T. of Delhi, 2012(14) R.C.R. (Criminal) 117 so as to contend that the right of the accused to lead the defence evidence is an

indefeasible right and that the accused has a right to a fair trial, which demands that sufficient opportunity be afforded to the accused to lead evidence in defence.

There is certainly no dispute as regards the broad proposition of law laid down in the above cited judgments. In the present case, the accused has already been afforded an opportunity to examine an handwriting expert, who has in fact furnished his opinion in favour of the petitioner. In these circumstances, there certainly be no justification for permitting the accused to examine another handwriting expert from Forensic Science Laboratory as certainly there would be no end in case such applications are allowed for the same cause. The fact that there are contradictory reports of the handwriting experts is a matter to be examined by the Court itself. It will be for the Court to rely upon the report which found to be more scientific and comprehensive and to discard the report, which is found to be unreliable.

In view of the discussion made above, I do not find any infirmity in the impugned order and the same is upheld. There is no merit in this petition and the same is hereby dismissed.

2.7.2018

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No