

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-27990-2015 (O&M)

Date of decision: 09.10.2018

Gurnup Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. KS Kahlon, Advocate for the petitioner.

Mr. AS Gill, DAG, Punjab.

Mr. Piyush Khanna, Advocate for respondent No. 2.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing orders dated 05.03.2015 (Annexure P-6) of the trial Court, whereby application of the petitioner under Section 311 Cr.P.C., for examination of hand-writing and finger-print expert to get compared the admitted signatures of respondent No. 2 with his disputed signatures was dismissed and order dated 04.08.2015 (Annexure P-8) dismissing the revision filed by the petitioner thereby affirming the aforesaid order Annexure P-6 of the trial Court.

Briefly, petitioner has filed a complaint under Section 138 of the Negotiable Instruments Act, 1881, against respondent No. 2-Sohan Singh. After closure of the evidence by petitioner, the respondent in his

defence evidence examined some hand-writing and finger-print expert, who vide his report Ex. DW-1/1, reported that cheque in question does not bear the signatures of respondent.

Consequently, the petitioner moved an application under Section 311 Cr.P.C. for examination of another hand-writing and finger-print expert in support of his assertion that the cheque in question bears the signatures of respondent by getting the same compared from his admitted signatures which has been dismissed by the trial Court vide impugned order Annexure P-6.

Being aggrieved, the petitioner approached the Revisional Court, but remained un-successful as his revision too was dismissed vide order dated 04.08.2015 (Annexure P-8).

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that report Ex. DW-1/1 of the hand-writing and finger-print expert examined by respondent No. 2 is patently illegal and wrong, in view of the fact that the said hand-writing and finger-print expert intentionally and deliberately with *mala fide* intention to favour respondent No. 2 submitted a false report by adopting illegal exercise of comparing signatures of respondent No. 2 on the cheque in question with his signatures on the Vakalatnama. Therefore, the necessity arose for the petitioner for comparison of the signatures of respondent No. 2 on the cheque in question with his standard signatures in the bank record, in order to bring truth on record for better appreciation and effective adjudication. In support of his contentions, learned counsel for the petitioner has relied upon judgment of this Court in **Jagseer Singh @ Sonu**

@ Joga @ Davinder Singh Vs. State of Punjab, 2012(2) RCR (Criminal)

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On the other hand, learned counsel for respondent No. 2 pleading the legality and validity of impugned orders Annexures P-6 and P-8 has placed reliance upon a judgment of this Court in Bhim Singh Vs. State of Punjab and another, 2015(6) RCR (Criminal) 552, to contend that the petitioner-complainant cannot be permitted to lead any evidence in rebuttal.

Having given thoughtful consideration to the rival submissions made by learned counsel for both the sides, this Court finds merit in this petition for the reasons to follow:

The hand-writing and finger-print expert examined by respondent No. 2, intentionally and deliberately adopted illegal exercise of comparison of his signatures on the cheque in question with his signatures on Vakalatnama. If the hand-writing and finger-print expert of respondent No. 2, would have been genuine and *bona fide*, he must have compared signatures of respondent No. 2 on the cheque in question with his standard signatures in the bank records, to which authenticity was attached.

The examination of hand-writing and finger-print expert by the petitioner does not amount to leading rebuttal to the evidence led by respondent No. 2. Rather, the same would remove ambiguity and bring truth on the record after comparison of signatures of respondent No. 2 on the cheque in question with his signatures in the bank records.

Considering this aspect of the matter, the instant petition is allowed. Resultantly, impugned orders dated 05.03.2015 and 04.08.2015

(Annexure P-6 and P-8, respectively) are set aside. The petitioner-complainant is granted permission to examine hand-writing and finger-print expert for comparison of signatures of respondent No. 2 on the cheque in question with his standard signatures in the bank record, subject to costs of ₹ 5000/- to be paid to respondent No. 2.

The facts and circumstances of the citation relied upon by learned counsel for respondent No. 2 are completely distinguishable from the facts of the present case. Therefore, no benefit whatsoever of the same can be given to respondent No. 2.

October 09, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No