

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

**CRM-M No.41541 of 2015 (O&M)
Date of Decision: 04.04.2018**

Vaneet Kapoor

..... Petitioner

Versus

Rajiv Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present:- Mr. A.P.S.Sandhu, Advocate for the petitioner.

Mr. Vinod Kumar Kaushal, Advocate for the respondent.

MAHABIR SINGH SINDHU, J. (Oral)

Present petition under Section 482 Cr.P.C. has been filed by the petitioner against the impugned judgment dated 18.09.2015 (**P-5**), passed by learned Additional Sessions Judge, Amritsar, vide which upheld the order dated 06.02.2015 (**P-4**), passed by learned Judicial Magistrate 1st Class, Amritsar, thereby rejecting his application seeking permission to examine the Handwriting Expert to compare his handwriting mentioned in the body of the cheque with the signatures on the cheque.

It is contended by learned Counsel for the petitioner that in view of the settled proposition of law by the Hon'ble Supreme Court, it is most relevant to prove the handwriting in the body of the cheque as well as signatures on the cheque and that will go to the root of the case if the same is distinguished from the signatures put on the bottom of the cheque as well as handwriting in the body. In support, he has relied upon the judgments of Hon'ble Supreme Court rendered in "**T. Nagappa Versus Y.R.Muralidhar**", 2008 (5) SCC 633 & '**Kalyani Baskar Versus M.S.Sampoornam**', 2007 (2) SCC 258 to substantiate his submissions.

On the other hand, learned Counsel for the respondent/complainant has not seriously opposed the contention of learned Counsel for the petitioner, but his only prayer is that the trial Court be directed to conclude the trial in some time bound period.

Heard both the sides.

So far as contention of learned Counsel for the petitioner is concerned, that seems to be justified and accepted in view of the fact that a specific stand has been taken by him that the cheque has been misused by the complainant as he had not filled up the body of the cheque; rather the cheque in question was blank, but duly signed by the petitioner.

During cross-examination, the complainant has stated that the cheque was filled up by the petitioner himself and not by the complainant.

Therefore, in view of the above factual position, this Court is fully convinced that the examination of the Handwriting Expert is very material and the same deserves to be examined by affording an opportunity to the petitioner at his risk and responsibility.

Consequently, the present petition is allowed and the aforesaid impugned judgment/order passed by both the learned Courts below are set aside.

It is made clear that the trial shall be concluded preferably within six months and this order shall not be construed as an expression of opinion on the merits of the case.

Disposed off accordingly.

April 04, 2018

(MAHABIR SINGH SINDHU)
JUDGE

Gagan

Whether speaking/reasoned	Yes
Whether Reportable	Yes