

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

CRR-1195-2018

Date of decision:-2.4.2018

Bal Kishan Saini

...Petitioner

Versus

Juber Khan

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Bhisham Kumar Majoka, Advocate
for the petitioner.

H.S. MADAAN, J.

Complainant – Bal Kishan Saini, Advocate had filed a criminal complaint under Section 138 of the Negotiable Instruments Act against accused - Juber Khan. The accused was accordingly summoned and put in appearance and presently he is facing trial before Judicial Magistrate Ist Class, Faridabad.

During the course of trial, the complainant moved an application under Section 311 Cr.P.C. for additional evidence for sending the cheque in question to FSL, Madhuban for the purpose of comparison of disputed signatures of accused with his admitted signatures for the reason that accused had denied having put his signatures on the cheque in question as well as agreement to sell dated 28.1.2014 executed between the accused and Deshraj Saini while being subjected to cross-examination.

The application was resisted by the accused.

After hearing the arguments, the trial Magistrate dismissed the application vide order dated 20.3.2018, the concluding para thereof is being reproduced for ready reference:

After hearing arguments from both the parties and perusal of the case file shows that the present application has been filed by the complainant for comparison of signature of accused on cheque in question. The complainant alleged that accused denied his signature on the cheque in question and agreement to sell dated 28.1.2014 and therefore, he wants to compare the signature of the accused on the said documents. Perusal of the file shows that on 8.7.2016, accused got recorded his statement under Section 263(g) of Cr.P.C. in which he clearly denied his signature on the cheque in question and any transaction between him and the complainant. The complainant has filed the present application on 13.3.2018 i.e. after the delay of eight months. No sufficient explanation has been given by him to file the present application after expiry of six months. Further, the case is already fixed for arguments when the present application has been filed. It reveals that the present application has been filed by the complainant only to fill up the lacuna of his case. It is well settled that an application under Section 311 Cr.P.C. cannot be allowed to fill up the lacuna. Hence. In these circumstances, the present application is dismissed.

Feeling aggrieved by such order, the complainant has filed revision petition before this Court.

I have learned counsel for the petitioner besides going through the record and I find that there is no illegality or infirmity in the impugned order much less the order being perverse or having been passed against settled principles of criminal law, which might have called interference by this Court while exercising revisional jurisdiction.

Therefore, criminal revision petition challenging that order cannot survive and is dismissed accordingly.

2.4.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No