

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 1644 of 2018**

Ajit Singh Gurudatta S/o Late Gurumukh Singh, Aged about 55 years,
R/o Station Road Mahasamund, Police Station and Tahsil
Mahasamund, District Mahasamund, Chhattisgarh.

---Petitioner**Versus**

Prakash Ajmani S/o Late Hansraj, R/o Near Rameshwari Durga
Chowk, Station Road Mahasamund, Police Station Tahsil and District
Mahasamund, Chhattisgarh.

---- Respondent**CRMP No. 1645 of 2018**

Ajit Singh Gurudatta S/o Late Gurumukh Singh, Aged about 55 years,
R/o Station Road Mahasamund, Police Station and Tahsil
Mahasamund, District Mahasamund, Chhattisgarh.

---Petitioner**Versus**

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Chowk, Station Road Mahasamund, Police Station Tahsil and District
Mahasamund, Chhattisgarh.

---- Respondent

For Petitioner	:	Mr. Gurudev I. Sharan, Advocate
For Respondent	:	Mr. Jameel Akhtar Lohani, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****14/11/2019**

1. Since, there is common question of law and fact involved in both of these petitions, therefore, they are heard and disposed of together by this common order.

2. Petitioner herein is an accused who is facing trial for offence punishable under Section 138 of the Negotiable Instruments Act, 1881. During the pendency of the trial, he filed an application under Section 45 of the Indian Evidence Act, 1872 stating that though his signature is present in the impugned cheque but other endorsements i.e. name, money and date mentioned on the cheque are not written by him, therefore, he may be permitted to examine the said disputed cheque by a handwriting expert, which has been rejected and against which he preferred a revision but that too, stood dismissed vide the order impugned dated 28/07/2018. Questioning the said impugned order, these criminal miscellaneous petitions have been preferred by the petitioner under Section 482 of the Cr.P.C.
3. Mr. Gurudev I. Sharan, learned counsel for the petitioner would submit that both the Courts below have erred in rejecting petitioner's application for getting the disputed cheque examined by the handwriting expert and as such, the impugned order is totally unsustainable and bad in law and deserves to be set aside.
4. Mr. Jameel Akhtar Lohani, learned counsel for the respondent would support the impugned order.
5. I have heard learned counsel for the parties and considered their rival submissions.
6. Petitioner has clearly admitted that it is his signature that is present in the disputed cheque but the other endorsements regarding the amount of cheque, date, etc. are not admitted and disputed by him stating to be not hand-written by him and therefore, the cheque needs to be examined by a hand-writing expert which ought to have been permitted by the trial Magistrate to allow the petitioner to

present his case before the trial Court that the cheque was not issued by him.

7. Both the Courts below have rejected petitioner's application on the ground that the signature on the cheque is of the petitioner. It has already been noticed by this Court that though he has admitted his signature, but he has disputed the other writings on the subject cheque. In view of that, the impugned order is set aside. Learned trial Court will permit the impugned cheque to be examined by the hand-writing expert as per the application filed by the petitioner under Section 45 of the Evidence Act on 09/07/2018 within three weeks from the date of receipt of a copy of this order.
8. With the aforesaid direction, these petitions stand disposed of. No cost(s).
9. A copy of this order be sent to the concerned trial Court by e-mail/fax for needful and compliance.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet