

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

Sr. No.242

**CRM-M-13545 of 2018
DECIDED ON: January 25, 2019**

SUDESH KUMARI

..PETITIONER

VERSUS

PARMINDER SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sanjay Jain, Advocate, for the petitioner.

Mr. Indresh Goel, Advocate, for the respondent.

SUDHIR MITTAL, J. (ORAL)

The petitioner seeks quashing of order dated 20.03.2018 (P-1) ,
whereby the trial Court has disallowed his application for examination of a
Handwriting Expert.

The complaint has been filed under Section 138 of Negotiable
Instruments Act, 1881. The matter is now fixed for defence evidence and
during the course of the same, the petitioner-accused sought permission to
get the cheque examined by a Handwriting Expert. The same has been
declined on the ground that at the time of cross-examination of the
complainant witnesses no question was put to them that the handwriting on
the cheque in question was not that of the petitioner. The legal notice was
also not replied to and thus, the petitioner was not entitled to examine a
Handwriting Expert.

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Learned counsel for the petitioner submits that during the course of defence evidence an accused has the right to lead evidence to establish his innocence. Merely, because no reply has been filed to the legal notice or because no question has been put to the complainant witness regarding the handwriting on the cheque it would not clothe a complainant with the right to curtail the defence of an accused. Thus, the trial Court fell in error in rejecting the application.

Learned counsel for the respondent supports the impugned order and adopts the reasoning given by the trial Court.

At the stage of leading defence evidence, the Court is duty bound to permit an accused to lead all evidence in support of his defence. The Court is not required to go into the matter touching upon cross-examination of the complainant witnesses and the accused has to be permitted to lead any evidence in consonance with his defence. Thus, the learned trial Court was not justified in dismissing the application of the petitioner on the ground contained in the impugned order.

The petition is accordingly allowed; order dated 20.03.2018 (P-1) passed by learned JMIC, Ambala, is set aside and the trial Court is directed to permit the petitioner to examine the Handwriting Expert. The petitioner shall produce Handwriting Expert before the trial Court on the next date of hearing and his report shall be obtained within one week thereafter. The expert shall also be examined on the date when he produces his report.

January 25, 2019

Ankur

Whether speaking/reasoned
Whether Reportable

(SUDHIR MITTAL)
JUDGE

Yes/No
Yes/No