

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-16788 of 2017

.....

Date of decision:08.04.2019

Prem Nath Mehta

.....Petitioner

v.

State of Punjab and another

.....Respondents

....

Present: Mr. Bhavesh Aggarwal, Advocate for Mr. Ashish Aggarwal,
Advocate for the petitioner.

Mr. Dhruv Dayal, Senior Deputy Advocate General, Punjab for
the respondent-State.

Mr. Kanwar Pahul Singh, Advocate for respondent No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of the impugned order dated 16.03.2017 (Annexure-P.4) passed by learned Judicial Magistrate Ist Class, Amritsar, in criminal complaint No.1509 of 2016 dated 11.05.2016 titled as “M/s Bhai Gopi Chand Vs. Prem Nath”, vide which an application filed by the petitioner for appointment of Handwriting Expert for comparison of signatures with the signatures on cheque in question has been dismissed in an illegal and arbitrary manner.

Notice of motion was issued in this case.

Mr. Dhruv Dayal, learned Senior Deputy Advocate General, Punjab has appeared on behalf of the respondent-State and Mr. Kanwar Pahul Singh, learned Advocate has appeared for respondent No.2 and contested this petition.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

A perusal of the record shows that during the pendency of the trial before the learned Judicial Magistrate Ist Class, Amritsar, an application for appointment of Handwriting Expert for comparison of signatures on cheque covered under the present complaint, which has been filed by the accused by alleging that he never put his signatures on the cheque in question.

The learned Judicial Magistrate Ist Class, Amritsar, vide order dated 16.3.2017 dismissed the application by stating that the cheque in question has been presented by the complainant in the bank twice which has been dishonoured with the remarks “funds insufficient”. Thus, the learned trial Court held that it is clear that specimen signatures of the accused available with the bank tallied with the signatures of the accused appended on the cheque in question. Otherwise also, the bank memo would have been issued with the remarks “signatures differ”. Therefore, he dismissed the application.

A perusal of the order shows that it has not been passed by the learned trial Court as per law. The accused is denying his signatures in question on the cheque. If this application is not allowed, the accused will be unable to prove the same fact. It is settled law that the Court should do substantial justice between the parties and not go into the technicalities of law. If the Bank officials have not mentioned the fact on the memo that signatures differ, it does not mean that the signatures on the cheque are by the same person or it is a conclusive proof. If this application is allowed, no

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prejudice will be caused to the other party because it will have every right to cross-examine the witness and can also bring the Expert in rebuttal.

Therefore, from the above, I find merit in the present petition and the same is allowed. The impugned order dated 16.3.2017 passed by the learned Judicial Magistrate Ist Class, Amritsar, is set aside not being as per law. The application is accepted to the extent that the petitioner can produce his own Handwriting and Fingerprints Expert as witness and for taking the photographs etc. from the Court file after taking permission of the learned trial Court and then compare it with the specimen signatures.

Therefore, from the above, I find merit in the present petition and the same is allowed.

April 08, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No