

CRM-M-3468-2016

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

CRM-M-3468-2016

Date of Decision: 10.12.2019

Ved Parkash Doda

... Petitioner

Versus

Jaspal

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ramesh Sharma, Advocate,
for the petitioner.

Mr. Mukesh Singh Tomar, Advocate for
Mr. Nitin Kant Setia, Advocate,
for the respondent.

HARNARESH SINGH GILL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 15.01.2016 passed by the learned Sub Divisional Judicial Magistrate, Abohar, vide which application filed by the petitioner for sending the cheque to the Forensic Science Laboratory to get opinion regarding the age of the ink, in the complaint No.1341/2013 dated 18.07.2011, titled as 'Jaspal Vs. M/s Krishan Chand Nand Lal and another', pending in the Court of the learned Sub Divisional Judicial Magistrate, Abohar, has been dismissed.

Learned counsel for the petitioner contends that on the cheque itself, the amount has been written with different ink and that too, at a very later stage and, therefore, the cheque in dispute may be sent to the Forensic Science Laboratory to get opinion regarding the age of the ink.

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Per contra, learned counsel for the respondent contends that as per Section 73 of the Evidence Act, 1872, the Court is empowered to make comparison of signatures, writing or seal with others admitted or proved.

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

The learned Trial Court has rightly dismissed the application of the petitioner-accused keeping in view facts that the case was fixed for defence evidence at the time of filing of the application, and that the petitioner-accused would be at liberty to get the opinion of the expert as per his own choice. Moreover, it would not be possible for an expert to give any definite opinion on the age of the ink as there is no accurate scientific method to determine the age of the ink.

In ***Sudarshan Kumar vs. Manish Manchanda*** 2015 (3) R.C.R. (Civil) 886, it has been held as under:

“5. As per the contentions raised by learned counsel for the petitioner, it is alleged that the cheques in question have been manipulated later on by filling in the necessary particulars in the body of the cheques. He has pleaded that the cheques in question should be sent to the Forensic Science Laboratory to determine the age of the ink used to fill in the necessary particulars in the body of the cheques. But in my opinion, it is not possible for a document expert to give any definite opinion about the age of the ink as it is not known in which year the ink used to write the document was manufactured. The Constitutional Bench of Hon'ble Supreme Court in case ***Union of India Vs. Jyoti Prakash Mitter, AIR 1971 SC 1093***, elaborately dealt with this issue and laid down as

under :-

“10. After consultations between the Ministry of Home Affairs and the Ministry of Law, the Home Ministry sent certain old writings of the year 1904, 1949, 1950 and 1959, and requested the Director to determine the age of the writing of the disputed horoscope and marginal note in the almanac by comparison. The Director on April 17, 1965 wrote that it "was impossible to give any definite opinion by such comparisons particularly when the comparison writings were not made with the same ink on similar paper and not stored under the same conditions as the documents under examination", and that it "will not be possible for a document expert, however reputed he might be, anywhere in the world, to give any definite opinion on the probable date of the horoscope and the ink writing in the margin of the almanac".”

6. This Court in case **Yash Pal Vs. Kartar Singh, 2003 (3) RCR (Civil) 701**, has also laid down that expert opinion to check the age of ink cannot help to determine the date of writing of the document as the ink used in the writing of the document may have been manufactured years earlier.

7. In case **Tarsem Singh Vs. Ravinder Singh 2014 (11) RCR (Civil) 2112**, this Court has again reiterated that there is no scientific method available for determine the age of the ink. In case **S. Gopal Vs. D. Balachandran 2008(2) RCR (Criminal) 466**, the Hon'ble Madras High Court has taken the same view and laid down that the age of the ink cannot be determined by an expert with scientific accuracy. The same legal position has been reiterated in cases **R. Dennis Raja Vs. T. Subbiah 2012 (3) RCR (Criminal) 212**, **K. Vaiavan Vs. Selvaraj 2012(4) RCR (Criminal) 942** and **Vinod Maroti Vs. Jitendra 2015 ACD 198 : Law Finder Doc Id # 529385**.

8. Thus, in view of the consistent rule of law laid down in the cases referred above, it will not be possible for an expert to give any definite opinion on the age of the ink as there is no accurate scientific method to determine the

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age of the ink. Cases T. Nagappa Vs. Y.R. Muralidhar (supra) relied upon by learned counsel for the petitioner is of no help to him in view of the judgment of the Constitutional Bench of Hon'ble Apex Court in Union of India Vs. Jyoti Prakash Mitter (supra). Consequently, the impugned order passed by the learned Judicial Magistrate First Class, Ludhiana does not suffer from any illegality.

In view of the above, no ground for interference in the present petition is made out.

Dismissed.

10.12.2019

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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