

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-43928-2021 (O&M)
Date of Decision:-1.12.2021

Raj Kumar

... Petitioner

Versus

M/s S.K. Trading Company

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ajeet Pal Singh Pakka, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court challenging impugned order dated 17.9.2021 (Annexure P-7) passed by learned Sub Divisional Judicial Magistrate, Phul vide which an application filed by the accused praying therein that the report of handwriting expert be discarded and that strict compliance of order passed by this Court i.e. order dated 29.1.2020 passed in CRM-M-8483 of 2017 (Annexure P-4) be made, has been dismissed.
2. I have heard the learned counsel for the petitioner and have also perused the documents annexed with the petition and also certain documents, which have today been produced in the Court, and are taken on record.
3. A few facts necessary for disposal of this petition are that a complaint i.e. COMA-217/2014 under Section 138 of Negotiable Instruments Act was instituted by 'M/s S.K. Trading Company' against 'M/s True Enterprises' and

others. During the course of cross-examination of complainant, the accused/petitioner produced some document, which according to the complainant was a forged document. The complainant accordingly moved an application dated 23.1.2017 (Annexure P-1) under Section 311 Cr.P.C. to examine handwriting expert, which was dismissed vide order dated 27.2.2017 (Annexure P-2) passed by learned Sub Divisional Judicial Magistrate, Phul. The complainant, however, challenged the said order before this Court by way of filing CRM-M-8483 of 2017, which was accepted vide order dated 29.1.2020 (Annexure P-4). The operative portion of the said order reads as follows:

“Handwriting and fingerprints expert sought to be summoned and examined by the petitioner in additional evidence is not going to prejudice the rights of the respondents, rather, would help the court in just and effective adjudication of the real controversy between the parties.

Considering this aspect of the matter, the impugned order is set aside. Application under Section 311 Cr.P.C. of the petitioner for summoning/ examining handwriting and fingerprints expert, is allowed. Trial court is directed to permit the petitioner to examine the handwriting and fingerprints expert.”

4. Pursuant to the aforesaid order dated 29.1.2020, the complainant examined Dr. Inderjit Singh, Handwriting Expert as CW-5. His examination-in-chief was recorded on 31.3.2021. However, upon a request made on behalf of the accused for deferring the cross-examination, the matter was adjourned. In the meantime, the accused moved an application dated 11.8.2021 (Annexure P-6) before the Trial Court for discarding the report submitted by the Handwriting Expert Dr. Inderjit Singh, which has been dismissed vide impugned order dated 17.9.2021.

5. Learned counsel for the petitioner has submitted that the handwriting expert in his report has gone beyond what was actually prayed for by the complainant and that infact the complainant only wanted to examine the “alteration” in the account, whereas the handwriting expert has gone beyond the scope of the order passed by the Hon’ble High Court and has proceeded to examine the authenticity of signatures of the petitioner Raj Kumar.
6. I have perused the application dated 23.1.2017 (Annexure P-1) moved on behalf of the complainant i.e. application under Section 311 Cr.P.C. for examining Hand Writing Expert and also the order dated 29.1.2020 passed by this Court in CRM-M-8483-2017 (Annexure P-4).
7. This Court finds that neither in the application under Section 311 Cr.P.C. nor in the order dated 29.1.2020 passed by this Court the scope has been limited and the only direction issued was that the Trial Court is directed to permit the petitioner to examine handwriting and finger print expert. In any case, even if it is presumed that the handwriting expert has given his opinion beyond the scope, the said evidence cannot be shut out in case it pertains to relevant aspect of the matter particularly as regards the signatures of the accused. This Court further finds that the matter is pending before the Trial Court since the year 2014 and it has been almost 7 years since the complaint is pending.
8. In view of the aforestated position, this Court does not find any infirmity in the impugned order dated 17.9.2021, wherein also it has been observed that the handwriting expert was not restricted to give his report on a particular aspect only. Needless to mention, the accused would be given an opportunity to effectively cross-examine the witness and would also be at liberty to lead evidence to demolish the report of handwriting expert.

9. In view of the aforesaid discussion, this Court does not find any infirmity in the impugned order dated 17.9.2021 (Annexure P-7) passed by learned Sub Divisional Judicial Magistrate, Phul and the same is hereby upheld. The petition is sans merit and is hereby dismissed.

1.12.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No