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

CRM-M-11011-2020

Date of decision:27.07.2022

SATISH GOYAL

...Petitioner

Versus

ANIL GARG

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Vimal Kumar Gupta, Advocate
for the petitioner.

Mr. Sanjay Vashisth, Advocate
for the respondent.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner is an accused in criminal complaint No. NACT No.2558/2017, titled as 'Anil Garg Vs Satish Goyal' which is *subjudice* before the learned Judicial Magistrate Ist Class, Faridabad. The above complaint is constituted under Sections 138, 141, 142 of the Negotiable Instruments Act.

2. The respondent-complainant who is the holder in due course, of the dishonoured negotiable instrument, upon, his stepping into the witness box, had tendered into evidence Mark-A and Mark-B. Mark A and Mark B are certain agreements to sell executed *inter-se* him, and, the respondent, and, in respect of amounts carried therein, he claims that the dishonoured instrument became issued.

3. After the conclusion of the recording of the deposition, of the respondent-complainant, during course whereof, he tendered the above disputed agreements, whereons exhibit marks were not made, rather only Mark-A, and, Mark-B becomes assigned, and, aptly so, as the above purported disputed

agreements drawn amongst the petitioner-accused, and, the respondent-complainant rather were not originals thereof, but were photocopies thereof.

4. In consequence, when only the originals are the primary evidence, in respect of any scribed agreements, thereupons the non-makings of exhibition marks thereon, but rather the making of Mark-A, and, Mark-B thereons, was both legally fit, and, apt.

5. Be that as it may, subsequently the petitioner-accused moved an application before the learned trial Magistrate concerned, claiming relief therein, qua the agreements became never executed by him, with the respondent-complainant, and/or, his signature thereons were forged. Therefore, he claims relief qua his disputed signatures being ordered to be compared by a handwriting expert rather with his standard/admitted writings. However, the learned trial Judge concerned, declined the above relief to the present petitioner-accused, whereupon, the petitioner becomes aggrieved, and, is led to institute the instant petition.

6. As above stated the primary evidence in respect of purportedly disputed agreements drawn amongst the concerned, is/are originals thereof, and, not photocopies thereof, and, if so, the purportedly forged signatures, as exist thereons, of the petitioner-accused, are never amenable for theirs being sent, for comparison, to the handwriting expert, hence along with his standard/admitted writings, and, nor the order dismissing the apposite application moved by the petitioner-accused, before the learned trial Judge, claiming therein relief, for the signatures, as carried on Mark A, and, Mark B, being sent for comparison along with his standard/admitted writings, was not amenable for being allowed, as aptly done.

7. There is no merit in the petition, and, the same is dismissed.

8. However, it is open to the petitioner-accused to, as, and, when the originals are tendered, and, produced in evidence, at his instance, or at the instance of the respondent-complainant, to at an appropriate stage, through an appropriate application cast under Section 45 of the Indian Evidence Act, rather therein ask for the above declined relief being accorded to him.

9. This order is only for the disposal of the instant petition and, shall have no bearings on the merits of the case.

(SURESHWAR THAKUR)
JUDGE

27.07.2022

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