

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38090 of 2016

Arising Out of PS. Case No.-880 Year-2013 Thana- BUXAR COMPLAINT CASE District-
Buxar

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Chandra Mohan Sharan @ Chandra Mohun Sharan

... .. Petitioner/s

Versus

State Of Bihar and Anr

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Roy, Advocate
For O.P. No.2	:	Mr. Suraj Deo Singh, Advocate
For the Opposite Party/s	:	Mr. Sri Rajkishore Singh, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

5 12-12-2023 The present petition under Section 482 Cr.P.C has been preferred by the petitioner impugning the order dated 02.08.2016 passed by Shri Shiv Kumar, J.M. 1st Class, Court No. (5), Buxar, whereby the application of the accused for sending signature to hand writing expert and re-opening the defence evidence has been allowed holding that adjudication of the dispute regarding hand-writing/signature of complainant is vital for disposal of the case. However, prior to this application, defence evidence was already closed. However, no compensatory cost was allowed to the complainant. Learned Magistrate has also directed the complainant to send disputed signature before an expert for its examination at his cost. However, there is confusion regarding liability of paying the



cost on account of the use of the word “his”. The complainant is under impression that the word “his” is used for him, which would be unjust because application of the accused has been allowed and not that of the complainant.

2. Heard Learned Counsel for both the parties.

3. Learned counsel for the petitioner submits that after closure of the evidence of the accused, the applications have been allowed without any compensatory cost to the complainant. Moreover, even cost of sending the signature to the expert has been imposed upon him.

4. Learned A.P.P. for the State and Learned Counsel for the O.P. No. 2, however, defend the order submitting that expert opinion regarding the disputed signature is essential to adjudicate the dispute.

5. Perused the case record and considered the rival submission of both the parties I find that for just adjudication of the dispute, expert opinion regarding the disputed signature of the complainant is essential. Hence, there is no illegality as far as Ld. Magistrate has allowed the application for examination of the expert, re-opening the evidence of the defence. However, Ld. Magistrate should have awarded some compensatory cost to the complainant because defence evidence was already closed.



Moreover, the cost of the examination of the expert should have been imposed upon the accused person whose application was allowed.

6. Hence, impugned order is upheld, subject to modification that cost involved in sending the disputed signature and examination of the expert would be borne by the accused and Rs. 2,000/- should be paid to the complainant by the accused towards compensatory cost for re-opening of defence evidence.

7. The present petition stands disposed of, accordingly, in terms as mentioned above.

(Jitendra Kumar, J)

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