

D/L33
08.12.2023
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C.R.R.1642 of 2023

In Re: An application under Section 401 read 482 of the Code of Criminal Procedure;

Bishnupriya Ghosh
Versus
State of West Bengal and another

Mr. Abhra Mukherjee
Mr. Sauradeep Dutta.
...for the petitioner.

Mr. Gautam Banerjee
Ms. Chumki Das Banerjee.
...for the opposite party no.2.

Petitioner is aggrieved by the fact that the cheque which is the subject matter of the proceeding being CR 595 of 2019 has been misutilized by forging her signature. Petitioner preferred an application before the learned Judicial Magistrate, 2nd Court, Chandernagore praying for handwriting expert's opinion to ascertain regarding the signature of the cheque. Learned Magistrate dismissed such application by its order dated 1st April, 2023. The reason so assigned by the learned Magistrate was that, since the evidence of the prosecution is in progress, at this stage, it would not be fit and proper to send the cheque for ascertaining the signature for handwriting expert's opinion.

I do not differ with the reason so assigned by the learned Magistrate. In view of the fact that at this stage when the evidence of the prosecution is in progress, the only way of cross-examination is by way of a suggestion regarding the signature being forged. The specific defence is to be taken at the stage of Section 313 Cr.P.C. by

the petitioner when the incriminating material is confronted by the learned Magistrate to the present petitioner. As such, once the examination of the accused under Section 313 Cr.P.C. is over, the learned Magistrate would be at liberty to examine the issue of sending the application for handwriting expert's opinion which has been preferred by the present petitioner.

Accordingly, the application under Section 45 of the Indian Evidence Act which was filed at the instance of the present petitioner and rejected by the learned Magistrate is kept in abeyance. The order of rejection is set aside. Learned Magistrate would consider the said application after the examination under Section 313 Cr.P.C. is over.

With the aforesaid observations, CRR 1642 of 2023 is disposed of.

Pending connected application, if any, is consequently disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Tirthankar Ghosh, J.)