

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-22359 of 2023(O&M)
Date of Decision: 05.05.2023

Piter Chand @ Peter Chand

...Petitioner

Versus

State of Haryana

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. P.S. Jammu, Advocate
For the petitioner.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner for setting aside the impugned order dated 15.03.2023, Annexure P-9 passed by the Court of learned Additional Sessions Judge, Sirsa vide which application, Annexure P-8 filed by the petitioner/ accused seeking direction to PW ASI Balwant Rai to give his specimen signatures for the purpose of comparison with his alleged signatures over documents, Ex.PW1/H and Ex.PW1/I and application, Annexure P-7 for calling EHC Rai Sahib either to admit or deny his signatures on the aforesaid documents and further directing him to give his specimen signatures for the aforesaid purpose, has been dismissed.

2. The counsel for the petitioner submits that even on *inter se* comparison of signatures of EHC Rai Sahib on the available documents which are part of the challan, are not matching with each other. The same is the position regarding signatures of PW ASI Balwant Rai who has been partly examined. The counsel for the petitioner further submits that the present case is relating to recovery of commercial quantity of contraband

from the petitioner and one another person and the said recovery has been falsely planted and in order to establish the innocence of the accused persons it is necessary to get compare the disputed signatures of ASI Balwant Rai and EHC Rai Sahib on the concerned documents with their admitted signatures. The counsel for the petitioner further submits that the impugned order deserves to be set aside and necessary directions be given to the trial Court to get the specimen signatures of both the above said police officials.

3. I have considered the submissions made by counsel for the petitioner.

4. There is a provision under Section 311-A Cr.P.C. wherein the Magistrate has got power to order a person to give specimen signatures or hand writing. However, apparently it appears that the said power could be used only against the accused or a person who has at some time been arrested in connection with such investigation or proceeding, thus, making it clear that Court cannot direct complainant to give specimen signatures under Section 311-A Cr.P.C.

5. Section 73 of Evidence Act reads as follows:-

Comparison of Signature, writing or seal with others admitted of proved;

"In order to ascertain whether a signature, writing, or seal is that of the person by whom it purports to have been written or made, any signature, writing or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose.

The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by a person."

6. The Hon'ble Apex Court in **Sukhwinder Singh Vs. State of Punjab (1994) 5 SCC 152** has held that under the Indian Evidence Act, two direct methods of proving the handwriting of a person are (a) by an admission of a person who wrote it and (b) by the evidence of some witness who saw it being written by that person. Apart from these, there are some other methods of proof of handwriting by opinion. They are (1) by the evidence of a handwriting expert (Section 45); (2) by the evidence of a witness acquainted with the handwriting of the person who is said to have written the disputed writing (Section 47) and (3) opinion formed by the Court itself on comparison made of the disputed writings with the admitted or specimen writings (Section 73).

7. In a normal course of trial, when a police Officer appears to give evidence in the Court that a certain article was recovered by him from the accused, it is for the accused through cross examination of the witness to show that the evidence of the police official is unreliable. In the instant case, both, ASI Balwant Rai and EHC Rai Sahib are cited as prosecution witnesses and as and when they are going to be examined on oath in the trial, both these witnesses will sign their deposition in token of its correctness and the said signatures are to be treated as admitted signatures of both the aforesaid police officials and if need be the said admitted signatures could be utilized for the purpose of comparison with their disputed signatures by the learned trial Court by invoking provisions of Section 73 of the Evidence Act.

8. In light of the above, the present petition is disposed of in aforesaid terms.

05.05.2023

Jiten

(KARAMJIT SINGH)
JUDGE

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