

2024:PHHC:097008



110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-313-2024
DECIDED ON: 15.02.2024

RAJ KANWAR @ RAJ KUMAR

.....PETITIONER

VERSUS

JAGBIR SINGH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Ms. Veena Hooda, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. The present criminal revision petition has been preferred against the order dated 09.01.2024 passed by Chief Judicial Magistrate, Jhajjar whereby, an application filed by the petitioner for appointment of handwriting and finger print expert under Section 45 read with Section 73 of Indian Evidence Act, 1872 has been dismissed.
2. It has been contended by learned counsel for the petitioner that the cheque in question was never drafted/filled by the petitioner. In fact, the petitioner and respondent-complainant both were having the partnership firm and during that time signed blank cheques were in the office, which were misused by the respondent. He further contends that no prejudice will be caused to the complainant, if the present petition is allowed.

3. Heard.

4. I have given anxious consideration to the submissions made on behalf of counsel for the petitioner. There is no serious dispute about the factual matrix. The petition arises from proceedings under Section 138 of the Negotiable Instruments Act 1881. The cheque has been signed by the accused. The accused disputes his authorship over other contents of the cheque.

5. In the case in hand, it is evident that the petitioner-accused has not denied his signatures on the cheque in question, meaning thereby, he has admittedly issued a cheque in dispute. Now, the plea of the accused that the present cheque has been filled up by some other person is of no help to him once he admits his signatures on the cheque in question, it shall be assumed that the cheque was issued by the petitioner in favour of the complainant towards discharge of liability.

6. Reliance can be placed upon the judgment of the Apex Court in the case of **Bir Singh Vs. Mukesh Kumar; (2019) 4 SCC 197 and Kalamani Tex Vs. P. Balasubramanian; (2021) 5 SCC 283** wherein, it has been held that a drawer who signs a cheque and hands it over to the payee is presumed to be liable unless the drawer adduces evidence to rebut the presumption that the cheque has been issued towards payment of a debt or in the discharge of a liability. It is held that for such determination fact that the details in the cheque have been filled up not by the drawer but by some other person would be immaterial. The presumption which arises on the signing of the cheque cannot be rebutted by a report of a handwriting expert even if the details in the cheque have not been filled up by the drawer but by another person.

7. In view of the discussions made hereinabove, the present petition is dismissed being devoid of any merits. Hence, the impugned order dated 09.01.2024 passed by Chief Judicial Magistrate, Jhajjar is upheld.

15.02.2024

Sham

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>