



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

CRR-3532-2015

Reserved on 03.10.2024

Date of decision: 15.10.2024

Randhir Singh

...Petitioner

Versus

Jaswant Singh Rattan

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Argued by: Mr. Madan Sandhu, Advocate for the petitioner.

Mr. Amit Kumar Saini, Advocate for the respondent.

KARAMJIT SINGH, J. (ORAL)

1. The present revision petition has been filed by petitioner/complainant against the order dated 27.08.2015 (Annexure P-1) passed by the Court of Judicial Magistrate 1st Class Ludhiana, vide which an application filed by the petitioner under Section 311 Cr.P.C to examine handwriting expert by way of additional evidence, was declined.

2. The brief facts of the case are that petitioner/complainant filed criminal complaint against respondent under Section 138 of Negotiable Instruments Act (in short 'NI Act') wherein respondent was summoned and was served notice of acquisition, to which he did not plead guilty. Petitioner led his evidence and then statement of respondent under Section 313 CrPC was recorded. In his defence evidence respondent examined handwriting expert in order to establish that the cheque in question is not bearing his signature. The respondent closed his defence evidence. At that stage



petitioner filed application under Section 311 Cr.P.C to lead additional evidence by examining a handwriting expert. The said application was dismissed by the trial Court vide impugned order dated 27.08.2015 (Annexure P-1), after giving opportunity of hearing to counsel for both the parties.

3. Being aggrieved the petitioner has filed the present revision petition. In response to the notice of motion issued by this Court, respondent appeared through his counsel.

4. I have heard the counsel for the parties.

5. The counsel appearing on behalf of the petitioner has submitted that respondent denied his signature on cheque in dispute in his statement under Section 313 Cr.P.C and thereafter, examined one handwriting expert in order to establish his defence. The said handwriting expert did not compare the admitted signature of respondent available in the bank record, with the disputed signature of petitioner appearing on cheque in question and gave a false report which goes in favour of respondent. In order to rebut the said report of handwriting expert, the petitioner moved an application (Annexure P-2) under Section 311 Cr.P.C to examine handwriting expert by way of additional evidence. However, the said application was declined by the trial Court in a casual manner, which resulted in miscarriage of justice. The counsel for the petitioner has further argued that the said additional evidence is required for proper adjudication of the case.

6. On the other hand the counsel for the respondent has submitted that the petitioner from the very beginning was fully aware that respondent has not admitted his signature on the cheque in question. The petitioner



should have examined the handwriting expert in affirmative while he was leading his evidence, to refute the aforesaid plea taken by the respondent. It is further submitted that there is no illegality or perversity in the impugned order whereby the trial Court dismissed the application (Annexure P-2) filed under Section 311 CrPC.

7. I have considered the submissions made by counsel for the parties and gone through the record of the trial Court.

8. In trial, petitioner/complainant appeared in the witness box as CW-1. In his cross-examination, number of suggestions were put to CW-1 by the defence counsel to the effect that cheque in question is not bearing the signature of respondent/accused and that the signature of accused are forged and fabricated one. Thus, making it clear that respondent/accused, from the very beginning had taken specific plea that cheque in question is not bearing his signature.

9. After the conclusion of the evidence of the petitioner/complainant, the statement of respondent/accused was recorded under Section 313 Cr.P.C, wherein also the accused denied his signature on the cheque in question. During his defence evidence, respondent/accused examined DW-1 Varun Gagneja, hand writing and finger print expert.

10. Undisputedly, the petitioner filed application Annexure P-2 under Section 311 Cr.P.C for examining handwriting expert by way of rebuttal to aforesaid defence evidence led by the respondent. If the petitioner wanted to examine the document expert, the petitioner should have done so while he was leading his evidence. If the petitioner/complainant knowing fully well that the respondent/accused has denied his signature on the cheque



in question, did not choose to examine a handwriting expert, he cannot be permitted to examine handwriting expert by way of rebuttal to defence evidence of DW-1 a handwriting expert. The petitioner cannot invoke provision of Section 311 CrPC to adduce rebuttal evidence on behalf of petitioner/complainant to fill up the lacuna, at the belated stage. In this regard, reference is made to decision of this Court in *Iqbal Singh Versus State of Punjab 1999(4) RCR CrL 625* wherein it was held that the complainant should have produced the evidence of the expert while adducing his evidence before examination of the accused under Section 313 Cr.P.C. He cannot be permitted to fill up the lacuna at a later stage. It cannot also be said to be an inadvertant mistake. Section 311 Cr.P.C is not intended to fill up the lacuna.

11. In light of the above discussions, I find application Annexure P-2 filed by the petitioner/complainant has been rightly dismissed by the trial Court. The impugned order Annexure P-1 passed by the trial Court does not suffer from infirmity much less perversity or illegality, so as to call for interference by this Court. The petition is completely devoid of merit and is accordingly, dismissed.

12. It is made clear that nothing stated herein above is an expression on the merits of the case and the trial Court is free to adjudicate upon the case based on the evidence led before it uninfluenced by any observations made herein above.

15.10.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No