



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-63059-2024(O&M)

Date of Decision: 16.12.2024

JAIMALJIT SINGH

....Petitioner

VERSUS

HARDEV SINGH MAND

....Respondent

CORAM : HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Sandeep Arora, Advocate for the petitioner.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition has been made by the petition for modification of order dated 16.11.2023 passed by learned Judicial Magistrate First Class, Amritsar in Criminal Complaint NACT-5594-2019 titled as '*Hardev Singh Vs. Jaimaljit Singh*' filed under Section 138 of Negotiable Instruments Act (for short *NI Act*') whereby application filed by the petitioner for granting permission to examine handwriting expert had been allowed as well as order dated 08.10.2024 passed in Criminal Revision No.4/2024 titled as '*Jaimaljit Singh Vs. Hardev Singh*' passed by Court of learned Additional Sessions Judge, Amritsar, whereby the petition for modification of the order dated 16.11.2024 had been dismissed.

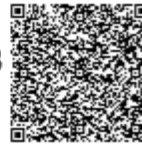
2. As culled out from the record, the petitioner who is facing trial for commission of offence under Section 138 of NI Act, had moved an application for granting him permission to examine a handwriting expert as a witness for the purpose of proving the authenticity of the cheque in dispute. Learned Magistrate allowed this application vide order dated 16.11.2023 and granted permission to examine handwriting expert. Learned Magistrate also



observed that the handwriting of the accused-petitioner be compared only with the sample handwriting of the accused which would be taken in the Court as per rules. Feeling dissatisfied by this order and by interpreting this order to mean that permission had been granted to examine the handwriting expert only for the purpose of proving the handwriting as appended on the cheque in question and not for the purpose of examining the date appended on the cheque in question, the petitioner filed revision petition before the learned Additional Sessions Judge, wherein a prayer was made that since the learned trial Court had not given permission to him to get the date as written in the cheque, compared/examined from the expert witness therefore, the impugned order dated 16.11.2023 was liable to be modified.

Learned Revisional Court observed that since the application filed by the petitioner had been allowed in toto, therefore, no relief was required to be given. On going through the contents of the orders dated 16.11.2023 and 08.10.2024, I am also of the considered opinion that no modification is required to be made in the order dated 16.11.2023 as by this order the above said application had been allowed by the learned trial Court thereby meaning to grant all the reliefs as claimed in the application. For the sake of convenience, the operative part of the order may be reproduced:-

“Accordingly, in view of the above observation the present application stands allowed. The accused is granted the permission to examine the handwriting expert as prayed in the application. It is however made clear that the handwriting of the accused be compared only with the handwriting samples of the accused which would be taken in the Court as per rules. The expenses of the



expert witness shall be borne by the applicant himself. The case stands adjourned to 02.12.2023 for taking the handwriting samples of the accused in the Court and for the evidence of the defence”.

3. On perusal of the above said order, it is apparent that the petitioner was granted permission to examine the handwriting expert as prayed in the application. Prayer in the application had been made for examining expert for the purpose of proving that the date as appended on the cheque in question had been tampered or not as well as for the purpose of comparing the writing on the cheque with the hand writing of the petitioner. Therefore, it cannot be assumed that relief claimed by the petitioner for examining handwriting expert for the purpose of assessing as to whether any tampering on the date had been made or not had not been granted. Accordingly, no illegality or infirmity can be found in the impugned order dated 16.11.2023 which requires any modification. As such, the petition is disposed of. It is, however, observed that the impugned order would mean that permission had been granted by the learned trial Court for comparing/examining the date as appended on the cheque in question besides the writing of the contents of this cheque.

Petition stands disposed of, accordingly.

(MANISHA BATRA)
JUDGE

16.12.2024

Deepak Patwal

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No