

205 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-18538-2019(O&M)
Date of decision:15.01.2025

Sanjeev Khanna

...Petitioner

versus

M/s Prime Industries Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ayush Gupta, Advocate
for the petitioner.

Mr. Namit Gautam, Advocate
for the respondent.

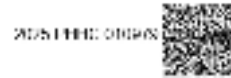
Harpreet Singh Brar, J. (Oral)

1. The present petition has been preferred under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter 'Cr.P.C.') seeking quashing of order dated 29.03.2019 (Annexure P-8) passed by the learned Additional Sessions Judge, Ludhiana and against the order dated 11.01.2019 (Annexure P-6) passed by learned Judicial Magistrate Ist Class, Ludhiana vide which application of the petitioner for directing DW2-Kashmir Singh to give specimen handwriting was dismissed, in the case stemming from complaint bearing no. COMA/42192/2013 dated 28.05.2012 under Section 420 IPC and Section 138 Negotiable Instruments Act, 1881 (hereinafter 'NI Act').

2. Briefly, the facts, as alleged, are that the petitioner approached the respondent for an urgent loan of Rs.38.75 lakh. The respondent paid him the sum and retained an undated cheque bearing no.588176 dated 31.10.2011 for Rs. 37 lakh. On presentation for encashment, the same was dishonoured with remarks- 'funds insufficient.' Consequently, complaint (supra) was filed.

3. Learned counsel for the petitioner *inter alia* contends that in his statement under Section 313 Cr.P.C., the petitioner has categorically denied the

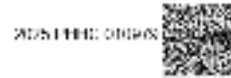
accusations levelled upon him and explained the circumstances leading to



dishonouring of the cheque. It also came to the fore that the petitioner was working in association with the respondent. He examined Kashmir Singh, another employee of the respondent, as DW2, in his defence. Curiously, DW2-Kashmir Singh has neither confirmed nor denied the execution of the document listed as Mark-D1 (Annexure P-4). In order to ascertain the same, a handwriting specimen of Kashmir Singh is required. The learned Courts below have fallen into grave error by dismissing the application of the petitioner, which would cause great prejudice to him.

4. *Per contra* learned counsel for the respondent submits that document Mark-D1 (Annexure P-4) does not convey any information and is a mere photocopy of some calculations, allegedly carried out by DW2-Kashmir Singh. Further, it is trite law that signatures cannot be compared from a photocopy of the main document. Reliance in this regard can be placed on the judgments rendered by this Court in ***Surjit Rai vs. Prem Kumar Khara and others 1995(2) LJR 184***, ***Ramo Bai and others vs. Vidya Rani and others 2011(38) R.C.R.(Civil) 54***, ***Jatinder Singh vs. Stainder Singh 2018(4) Law Herald 3223***, ***Balbir Singh(deceased) through his LRs vs. Shiv Raj Singh Dabra and another 2019(1) PLR 292***, ***Balbir Singh vs. Bhim Singh and others 2015(35) R.C.R. (Criminal) 144*** and ***Santokh Singh vs. Jasbir Kaur and others CR-4492-2019 decided on 19.09.2022***.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the entire controversy revolves around obtaining handwriting samples of DW2-Kashmir Singh in order to prove document Mark -D1 (Annexure P-4), allegedly prepared and signed by him. However, perusal of document Mark-D1 (Annexure P-4) does not provide any clarification qua its contents or its relevance to the case at hand. Moreover, the



document (Annexure P-4) itself is a photocopy, as such, even if the handwriting comparison exercise is undertaken, it cannot be conclusively said that the same has been prepared by DW2-Kashmir Singh. Therefore, this exercise would not only be infructuous but also unnecessarily delay the trial and waste precious judicial time.

6. Time and again, this Court has reiterated that signatures cannot be verified from a photocopied document as, in this day and age, it poses immediate concerns qua its genuineness. A Co-ordinate Bench of this Court in **Ramo Bai(supra)**, speaking through Justice Ajay Kumar Mittal, opined as follows:

*“7. The plaintiff-petitioners admittedly had not produced the original Will dated 7.6.1997 allegedly executed by Hardial Ram which was said to be scribed by Ram Lubhaya Kamboj, Advocate. **In the absence of original Will, it would not be legally justified to allow the plaintiff-petitioners for comparison of signatures and handwriting of Ram Lubhaya Kamboj, Advocate on the photo copy of the Will. The said comparison cannot constitute an authentic proof of execution of Will especially in these days of computerisation when signatures of a person can be lifted from one place and put at another place by superimposition. Equally, in the absence of original document available for comparison of handwriting, it would be dangerous to allow such comparison from photo copy of the document.***

8. This Court in **Surjit Rai's case (supra)** while examining whether handwriting expert could be allowed to depose with regard to the comparison of signatures from a photo copy of the agreement has noticed as under:-

"Original agreement has not been produced on the record. In my view, signatures cannot be compared from the photo copy of the agreement because in these days of advance technology, signatures of a person can be lifted from one document and put on another document by super imposition."

9. Following the aforesaid decision in **Karnail Singh's case (supra)**, this Court had concluded as under:-

*"Even the signatures of the appellant on the photostat copies could not have been examined as was done by the respondent by producing a handwriting expert in **Sh. Surjit Rai's case (supra)**, a learned Single Judge has held as under:-*

"... In my view, signatures cannot be compared from the photocopy of the agreement because in these days of advance technology, signatures of a person can be lifted from one



document and put on another document by super imposition."
(emphasis added)

7. Further still, for proper adjudication of the case, a study of Section 311-A Cr.P.C. is called for-

Section 311-A: Power of Magistrate to order person to give specimen signatures or handwriting.

If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting:

Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

A bare perusal of the abovementioned provision makes it clear that exercise of power under Section 311-A Cr.P.C. is subject to the satisfaction of the concerned Magistrate. Only when the Magistrate is satisfied that it is beneficial to obtain specimen signature of the accused person, is he required to pass an order directing it. Further, such an order must be reasoned and reflect application of mind. It is not mandatory for the Magistrate to order handwriting comparison just because an application has been filed to that effect.

8. In view of the discussion above, this Court is of the considered opinion that no grounds are made out for any interference. Accordingly, the present petition is dismissed. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

15.01.2025
Ajay Goswami

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