

IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

132

CRM-M-37068-2025
DECIDED ON: 16.07.2025

ASHWANI MARWAHA

.....PETITIONER

VERSUS

CHEENA

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Sirphikhi, Advocate
for the petitioner.

SANDEEP MOUDGIL, J

1. This petition has been filed under Section 482 of the Code of Criminal Procedure /Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying for quashing of the order dated April 29, 2025, Annexure P/5 passed by the JMIC, Amritsar in Complaint under Section 138 of the Negotiable Instrument Act, 1881 i.e, NACT-699-2021 vide which the filed by the application complainant/petitioner herein under 45 and Section 47 of the Indian Evidence Act, 1872 for seeking permission of opinion as to handwriting expert for comparing the signatures of complainant and his son namely Krishan Marwah on Ex. Dw1/A and Ex. Cw1/X and tampering of date at Point-B on the same exhibits, has been dismissed.

2. Learned counsel for the petitioner has assailed the impugned order on the ground that it is perverse, arbitrary, and against the settled principles of law. It is argued that the Trial Court failed to appreciate the



material fact that the respondent/accused has produced an alleged compromise deed in her favour, which is vehemently denied by the petitioner. It is submitted that no such compromise or settlement was ever entered into between the parties and the said document is a result of forgery and fabrication, orchestrated solely to defeat the legitimate claim of the complainant.

3. It is further contended that in order to establish the falsity of the said document, the assistance of a handwriting and forensic expert is crucial, especially for comparing the signatures allegedly attributed to the complainant and his son and to detect possible tampering in the date mentioned on the impugned documents. Denial of such opportunity, according to the petitioner, would amount to a gross miscarriage of justice and would impair the right to fair trial guaranteed under Article 21 of the Constitution of India.

4. **ANALYSIS**

The right to a fair trial is a cornerstone of the criminal justice system and a fundamental right enshrined under Article 21 of the Constitution of India, which guarantees protection of life and personal liberty. A fair trial is not only about procedural correctness but also about ensuring that justice is both done and seen to be done. It encompasses the right of the parties to present their case fully and fairly, including the right to produce relevant evidence and challenge the evidence of the opposing party.

Upon hearing the submissions and perusing the record, this Court finds merit in the contentions raised by the petitioner. The scope of



Sections 45 and 47 of the Indian Evidence Act permits the opinion of handwriting experts where the authenticity of a signature or handwriting is under serious dispute. The purpose of such provisions is to assist the Court in arriving at a just and fair conclusion, especially where genuine doubt is raised regarding the origin or execution of a document.

The Hon'ble Supreme Court in '*Ramesh Chandra Agrawal v. Regency Hospital Ltd. & Ors.*, [(2009) 9 SCC 709]', has held that expert evidence is a relevant factor and must be considered seriously by the Courts, particularly when there is a controversy surrounding a document's authenticity. Similarly, in '*State of Maharashtra v. Sukhdev Singh*, [(1992) 3 SCC 700]', it has been held that denial of opportunity to lead expert evidence may, in appropriate cases, amount to denial of fair trial.

In the instant case, since the very basis of the respondent's defence hinges upon the compromise deed, and the petitioner has specifically denied the existence and authenticity of such a deed, the Trial Court ought to have exercised its discretion judiciously and allowed the application for expert opinion. Such an exercise would not only ensure procedural fairness but would also safeguard against the possible admission of forged or manipulated evidence.

5. Conclusion:

In view of the above legal position and considering the facts and circumstances of the present case, this Court is of the considered opinion that the impugned order dated 29.04.2025, suffers from material irregularity and legal infirmity and is thus liable to be set aside.



The impugned order dated 29.04.2025 is quashed and the Trial Court is directed to permit the petitioner to obtain and present expert opinion with regard to the disputed signatures and the alleged tampering of the date on the said documents.

Accordingly, the petition is allowed.

(SANDEEP MOUDGIL)
JUDGE

16.07.2025
anuradha (a)

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