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

RSA-2410-2012 (O&M)

Date of decision : 21.08.2025

JASPAL SINGH

....Appellant

Versus

RANJIT SINGH

.....Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Tarunveer Vashisht, Advocate
for the appellant.

Mr. M.S. Khaira, Sr. Advocate (through V.C.) with
Mr. Sunil Sharma, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

Defendant is in second appeal aggrieved of the judgments and decrees passed by the Courts below whereby suit filed by the plaintiff seeking recovery of ₹3,00,000/- along with interest, stands decreed.

2. For convenience, the parties hereinafter are referred to by their original position before the Court of the First Instance i.e., the appellant as 'defendant' and the respondent as 'plaintiff'.

3. Plaintiff filed suit claiming that an amount of ₹3,00,000/- was lent by him to defendant on the basis of promissory note dated 22.08.2005 executed by defendant. He thus prayed for recovery of the amount along with interest.



4. The suit was contested by the defendant denying execution of the promissory note. It was further claimed that the scribe is brother-in-law of the plaintiff. Plaintiff in fact nurses a grudge against defendant because of the rejection of the proposed marriage between the daughter of the plaintiff and the son of the defendant.

5. Plaintiff in order to prove execution of the promissory note, examined one of the attesting witnesses and scribe.

6. Defendant in order to prove that the promissory note was not executed by him, examined handwriting expert Inderjit Singh, who appeared as DW2.

7. The Courts below after analysing the evidence threadbare came to the conclusion that the plaintiffs successfully proved execution of the promissory note. There is a receipt (Exhibit P-2) acknowledging the receipt of money and thus decreed the suit filed by the plaintiff.

8. Counsel for the appellant has assailed the findings recorded by the Courts below. He submits that plaintiff having propounded promissory note, dated 22.08.2005, was required to prove the same. He submits that once defendant denied his signatures on the same, plaintiff was required to prove signatures of the defendant on the promissory note by leading cogent evidence. No evidence was led by the plaintiff to prove that the document bears signatures of the defendant whereas, defendant examined handwriting expert, who proved his report to the effect that the signatures on the promissory note, were not that of defendant. He thus submits that plaintiff



having failed to discharge his onus, Courts below erred in decreeing the suit filed by the plaintiff.

9. Per contra, Mr. M.S. Khaira, Ld. Senior Counsel appearing for the defendant would submit that plaintiff proved execution of promissory note by examining attesting witness as well as scribe of the promissory note. Receipt, Exhibit P-2, was proved. Apart from taking a false stand that the document was not signed by defendant, defendant failed to lead any cogent evidence to rebut the presumption in favour of the plaintiff as contemplated under Section 118 of the Negotiable Instruments Act, 1881. He further submits that the Courts below have rightly discarded the report given by hand-writing expert and have gone by their own analysis to hold that the promissory note bears the signatures of defendant. He thus submits that Courts below have rightly decreed the suit filed by the plaintiff.

10. I have heard counsel for the parties and have carefully gone through records of the case.

11. As per law, the promissory note was required to be proved by plaintiff. In order to discharge his onus, plaintiff examined attesting witness and scribe thereof. Defendant in order to dispute his signatures, examined handwriting expert. Courts below discarded the report of the handwriting expert and resorted to Section 72 of the Indian Evidence Act, 1872 and analyzed the signatures on the promissory note to hold that the same bears the signatures of defendant.



12. Execution of Document required by law to be attested needs to be proved by examining at least one of the attesting witnesses (Section 67 of the Bhartiya Sakshya Adhiniyam, 2023). In cases where handwriting/ signatures of the executant are disputed, the same can be proved either:

- (1) by the evidence of a handwriting expert (Section 39) or;
- (2) by the evidence of a witness acquainted with the handwriting of the person who is said to have written the disputed writing (Section 41); or
- (3) opinion formed by the Court itself on comparison made of the disputed writings with the admitted or specimen writings (Section 72).

13. Courts below in the present case resorted to the third mode Section 73 of the Indian Evidence Act, 1872 re-enacted as Section 72 of BSA 2023. Trite it is that the science of identification of handwriting by comparison being not an infallible one. Before donning the hat of an expert himself under Section 72 of BSA 2023, the Court needs to be fully satisfied of the admitted writings which are made the basis for comparison.

14. After considering legislative background of Section 73, Supreme Court of India spelled out thereof in the case of **‘State (Delhi Admn.) vs. Pali Ram’**, (1979) 2 SCC 158, observing as under:



“33. Since even where proof of handwriting which is in nature comparison, exists, a duty is cast on the Court to use its own eyes and mind to compare the admitted writing with the disputed one to verify and reach its own conclusion, it will not be wrong to say that when a Court seized of a case, directs an accused person present before it to write down a sample writing, such direction in the ultimate analysis, "is for the purpose of enabling the Court to compare" the writing so written with the writing alleged to have been written by such person, within the contemplation of Section 73. That is to say, the words "for the purpose of enabling the Court to compare" do not exclude the use of such 'admitted' or sample writing for comparison with the alleged writing of the accused, by a handwriting expert cited as a witness by any of the parties. Even where no such expert witness is cited or examined by either party, the Court may, if it thinks necessary for the ends of justice, on its own motion, call an expert witness, allow him to compare the sample writing with the alleged writing and thus give his expert assistance to enable the Court to compare the two writings and arrive at a proper conclusion.

34. For all the foregoing reasons, we are of opinion that in passing the orders dated May 20, 1972 relating to the disposal of the application dated December 11, 1970, the learned Additional District Magistrate did not exceed his powers under Section 73, Evidence Act. The learned Judges of the High Court were not right in holding that in directing the accused by his said order dated May 20, 1972, the Magistrate acted beyond the scope of Section 73 or in a manner which was not legal.”

15. In the case of ‘**State of Maharashtra vs. Sukhdev Singh, (1992) 3 SCC 700**, it was observed that:

“29. xxxxxxxxxx It is indeed true that by nature and habit, over a period of time, each individual develops certain traits which give a distinct character to his writings making it possible to identify the



author but it must at the same time be realised that since hand writing experts are generally engaged by one of the contesting parties they, consciously or unconsciously, tend to lean in favour of an opinion which is helpful to the party engaging him. That is why we come across cases of conflicting opinions given by two handwriting experts engaged by opposite parties. It is, therefore, necessary to exercise extra care and caution in evaluating their opinion before accepting the same. So Courts have as a rule of prudence refused to place implicit faith on the opinion evidence of a handwriting expert. Normally Courts have considered it dangerous to base a conviction solely on the testimony of a handwriting expert because such evidence is not regarded as conclusive. Since such opinion evidence cannot take the place of substantive evidence, Courts have, as a rule of prudence, looked for corroboration before acting on such evidence. True it is, there is no rule of law that the evidence of a handwriting expert cannot be acted upon unless substantially corroborated but Courts have been slow in placing implicit reliance on such opinion evidence, without more, because of the imperfect nature of the science of identification of handwriting and its accepted fallibility. There is no absolute rule of law or even of prudence which has ripened into a rule of law that in no case can the Court base its findings solely on the opinion of a handwriting expert but the imperfect and frail nature of the science of identification of the author by comparison of his admitted handwriting with the disputed ones has placed a heavy responsibility on the Courts to exercise" extra care and caution before acting on such opinion. Before a Court can place reliance on the opinion of an expert, it must be shown that he has not betrayed any bias and the reasons on which he has based his opinion are convincing and satisfactory. It is for this reason that the Courts are wary to act solely on the evidence of a handwriting expert; that, however, does not mean that even if there exist numerous striking peculiarities and mannerisms which stand out to identify the writer, the Court will not act on the expert's evidence. In the end it all depends on the character of the evidence of the expert and the facts and circumstances of each case.



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What emerges from the case law referred to above is that a handwriting expert is a competent witness whose opinion evidence is recognised as relevant under the provisions of the Evidence Act and has not been equated to, the class of evidence of an accomplice. It would, therefore, not be fair to approach the opinion evidence with suspicion but the correct approach would be to weigh the reasons on which it is based. The quality of his opinion would depend on the soundness of the reasons on which it is founded. But the court cannot afford to overlook the fact that the science of identification of handwriting is an imperfect and frail one as compared to the science of identification of finger-prints; courts have, therefore, been wary in placing implicit reliance on such opinion evidence and have looked for corroboration but that is not to say that it is a rule of prudence of general application regardless of the circumstances of the case and the quality of expert evidence. No hard and fast rule can be laid down in this behalf but the Court has to decide in each case on its own merits what weight it should attach to the opinion of the expert.”

(emphasis supplied)

16. While dealing with the situation of denial of signatures by the alleged executant Supreme Court in ‘**K.S. Satyanarayana vs. V.R. Narayana Rao, (1996) 6 SCC 104**, observed that:

“7. A piquant situation had developed before the trial court when the Ist defendant denied his signatures on the written statement and Vakalatnama in favour of his counsel. Trial court should have immediately probed into the matter. It should have recorded statement of the counsel for the Ist defendant to find out if Vakalatanama in his favour and written statement were not signed by the Ist defendant whom he represented. It was apparent



that the Ist defendant was trying to get out of the situation when confronted with his signatures on the Vakalatnama and the written statement and his having earlier denied his signatures on Exh.P-1 and Exh.P-2 in order to defeat the claim of the plaintiff. Falsehood of the claim of the Ist defendant was writ large on the face of it. Trial Court could have also compared the signatures of the Ist defendant as provided in section 73 of the Indian Evidence Act. XXX”

17. In the case of **‘Lalit Popli vs. Canara Bank, (2003) 3 SCC 583’** explaining the interplay between Section 45 and Section 73 of the 1872 Act, Supreme Court held that:

“12. Sections 45 and 73 of the Indian Evidence Act, 1872 (in short 'the Evidence Act') deal with opinion of experts and comparison of signature, writing or seal with others admitted or proved. Section 45 itself provides that the opinions are relevant facts. It is a general rule that the opinion of witnesses possessing peculiar skill is admissible. There was no challenge to the expertise of V.K. Sakhuja. He deposed to have testified in about ten thousand cases relating to disputed documents. Though the employee highlighted certain adverse remarks, it cannot be lost sight of that they were about four decades back. But we need not go into that aspect in detail as no infirmity in the report acted upon by the authority in the present case was noticed or could be pointed out.

13. It is to be noted that under Sections 45 and 47 of the Evidence Act, the Court has to take a view on the opinion of others, whereas under Section 73 of the said Act, the Court by its own comparison of writings can form its opinion. Evidence of the identity of handwriting is dealt with in three Sections of the Evidence Act. They are Sections 45, 47 and 73. Both under Sections 45 and 47 the evidence is an opinion. In the former case it



is by a scientific comparison and in the latter on the basis of familiarity resulting from frequent observations and experiences. In both the cases, the Court is required to satisfy itself by such means as are open to conclude that the opinion may be acted upon. Irrespective of an opinion of the Handwriting Expert, the Court can compare the admitted writing with disputed writing and come to its own independent conclusion. Such exercise of comparison is permissible under Section 73 of the Evidence Act. Ordinarily, Sections 45 and 73 are complementary to each other. Evidence of Handwriting Expert need not be invariably corroborated. It is for the Court to decide whether to accept such an uncorroborated evidence or not. It is clear that even when experts' evidence is not there, Court has power to compare the writings and decide the matter. [See *Murari Lal v. State of Madhya Pradesh*, (1980) 1 SCC 704].

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16. It is fairly well settled that the approach and objection in criminal proceedings and the disciplinary proceedings are altogether distinct and different. In the disciplinary proceedings the preliminary question is whether the employee is guilty of such conduct as would merit action against him; whereas in criminal proceedings the question is whether the offences registered against him are established and if established what sentence should be imposed upon him. The standard of proof, the modes of enquiry and the rules governing the enquiry and trial are conceptually different. [See *State of Rajasthan v. B.K. Meena and ors.*, 1996(4) SCT 708 (SC) : (1996) 6 SCC 417]. In case of disciplinary enquiry the technical rules of evidence have no application. The doctrine of "proof beyond doubt" has no application. Preponderance of probabilities and some material on record are necessary to arrive at the conclusion whether or not the delinquent has committed misconduct.”

(emphasis supplied)



18. In the case of ‘**O. Bharathan vs. K. Sudhakaran**’, (1996) 2 SCC 704 Supreme Court red flagged the practice of courts acting as experts even though Section 73 of 1872 Act empowers them, observing that:

“18. The learned Judge in our view was not right either in brushing aside the principles laid down by this Court in AIR 1979 Supreme Court 14 (supra) on the ground that it was not a criminal case or taking upon himself the hazardous task of adjudicating upon the genuineness and authenticity of the signatures in question even without the assistance of skilled and trained person whose services could have been easily availed of. Annulling the verdict of popular will is as much a serious matter of grave concern to the society as enforcement of laws pertaining to criminal offence, if not more. Though it is the province of the expert to act as Judge or jury after a scientific comparison of the disputed signatures with admitted signatures, the caution administered by this Court is to the course to be adopted in such situations could not have been ignored unmindful of the serious repercussions arising out of the decision to be ultimately rendered. To quote, it has been held in AIR 1979 Supreme Court 14 (supra):

"The matter can be viewed from another angle also. Although there is no legal bar to the Judge using his own eyes to compare the disputed writing with the admitted writing, even without the aid of the evidence of any handwriting expert, the Judge should, as a matter of prudence and caution, hesitate to base his finding with regard to the identity of a handwriting which forms the sheet-anchor of the prosecution case against a person accused of an offence, solely on comparison made by himself. It is, therefore, not advisable that a Judge should take upon himself the task of comparing the admitted writing with the disputed one to find out whether the two agree with each other; and the prudent course is to obtain the opinion and assistance of an expert."



19. The necessity for adhering to the said sound advise and guidance is all the more necessary in a case where hundreds of signatures are disputed and the striking dissimilarities noticed by the Court at the time of trial of the Election Petition.”

(emphasis supplied)

19. Same sentiment finds echo in ‘**Ajay Kumar Parmar vs. State of Rajasthan (2012) 12 SCC 406**’ where while dealing with the provisions of Section 73 of the Evidence Act, 1872, Supreme Court observed that courts should be slow to base their findings solely on comparison made by it, observing that :

“28. The opinion of a handwriting expert is fallible/liable to error like that of any other witness, and yet, it cannot be brushed aside as useless. There is no legal bar to prevent the Court from comparing signatures or handwriting, by using its own eyes to compare the disputed writing with the admitted writing and then from applying its own observation to prove the said handwritings to be the same or different, as the case may be, but in doing so, the Court cannot itself become an expert in this regard and must refrain from playing the role of an expert, for the simple reason that the opinion of the Court may also not be conclusive. Therefore, when the Court takes such a task upon itself, and findings are recorded solely on the basis of comparison of signatures or handwritings, the Court must keep in mind the risk involved, as the opinion formed by the Court may not be conclusive and is susceptible to error, especially when the exercise is conducted by one, not conversant with the subject. The Court, therefore, as a matter of prudence and caution should hesitate or be slow to base its findings solely upon the comparison made by it. However, where there is an opinion whether of an expert, or of any



witness, the Court may then apply its own observation by comparing the signatures, or handwritings for providing a decisive weight or influence to its decision.”

20. Similar view has been expressed in the case of ‘**A. Srinivasulu vs. State of T.N.’ (2023) 13 SCC 705** wherein Supreme Court held that:

“137. For invoking Section 73, there must first have been some signature or writing admitted or proved to the satisfaction of the Court, to have been written or made by that person. The Section empowers the Court also to direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures.”

21. Thus, the following legal proposition emerges from the afore discussed views expressed in binding precedents:

(A) In cases where handwriting is disputed, the same can be proved either:

- (1) by the evidence of a handwriting expert (Section 39 of BSA 2023) or;
- (2) by the evidence of a witness acquainted with the handwriting of the person who is said to have written the disputed writing (Section 41 of BSA 2023); or
- (3) opinion formed by the Court itself on comparison made of the dispute writings with the admitted or specimen writings (Section 72 of BSA 2023);

(B) the science of identification of handwriting by comparison is not an infallible one;



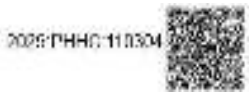
- (C) the opinion of a handwriting expert is fallible like that of any other witness, and yet, it cannot be just brushed aside as useless. The court while analysing the opinion of expert may apply its own observation by comparing the signatures, or handwritings for providing a decisive weight or influence to its decision
- (D) there is no legal bar preventing the court from comparing signatures or handwriting, by using its own eyes to compare the disputed writing with the admitted writing.;
- (E) the court, as a matter of prudence and caution should hesitate or be slow to base its findings solely upon the comparison made by it;
- (F) for the purpose of comparison of handwriting by court or by expert, existence of admitted handwriting is *sine qua non*;
- (G) the opinion formed by the court is also susceptible to error and is not conclusive. It is also to be considered only as a corroborative piece of cogent evidence and not relied upon;
- (H) the court cannot simply conclude that it has seen the signatures and finds it to be or doesn't find the same to be that of executant. Once Court decides to adorn the hat of an expert, the opinion expressed by court has to be



backed by reasons. It cannot be merely conclusions without being backed by reasons. In cases where court assumes role of comparing signatures, he can seek assistance of an expert.

22. Applying the aforesaid parameters to the present case, this Court finds that the Lower Appellate Court after comparing the signatures of the defendant on the promissory note with the admitted signatures on *vakalatnama*, concluded as under:

“17. Upon weighting the evidence led by both the parties, I find that the plaintiff has led sufficient evidence to establish the due execution of the pronote inasmuch as apart from examining himself, he has examined both the attesting witnesses and the scribe, who have all lent corroboration to the testimony of the plaintiff regarding execution of pronote dated 22.8.2005 and regarding receipt of Rs. Three lacs by the defendant. Nothing substantial could be elicited during the course of cross-examination of aforesaid witnesses. The defendant has attempted to make a dent in the case of the plaintiff by asserting that the pronote does not bear his signatures. In order to hammer forth the said assertions, the defendant is mainly banking upon the evidence of Hand Writing Expert i.e. DW2 Inderjit Singh. Upon perusal of signatures of defendant as is existing on the pronote and by comparing the same with naked eye with the signatures of defendant as existing on the Vakalatnama and on the affidavit tendered in the court, I do find that there is some distinction in the same. However, it cannot be ruled out that a deliberate attempt may have been made he stepped in the court SO as to avoid his liability. It is not uncommon that hand writing expert do have tendency to depose in favour of their pay master. In any case, this court does not find any ground to discard the testimony of two



attesting witnesses and the scribe. There is nothing on record to show that they had any enmity with the defendant so as to have deposed falsely.”

23. Evidently, the conclusion arrived at is backed by reasons recorded. Thus, this Court does not find any reason to interfere in the well reasoned findings recorded by the courts below.

24. So far as the issue of scribe being close relative of plaintiff is concerned, the argument raised is without merit. The moment scribe entered into witness-box, the plea that he is a close relative of plaintiff, lost its sting. His testimony cannot be brushed aside merely referring to his relation with the plaintiff once he has offered himself for cross-examination and has successfully withstood the test thereof. Counsel could not point out any infirmity in the testimony of scribe

25. Pure findings of fact have been recorded by the Courts below. Finding no question of law in the present appeal, the same is ordered to be dismissed.

26. Pending application(s), if any, shall also stand disposed off.

August 21, 2025

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes

Whether reportable : Yes