



CRM-M-38585-2025

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

CRM-M-38585-2025

Date of decision: 06.11.2025

Sukhpal Singh

...Petitioner

V/s

M/s Dhanda Trading Company

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Vivek Goyal, Advocate for the petitioner.

Mr. Aseem Garg, Advocate for the respondent.

SUMEET GOEL, J.

1. The present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS') has been filed by the petitioner-accused seeking quashing of the order dated 08.07.2025 passed by the learned Judicial Magistrate First Class, Kurukshetra whereby the application moved by the accused-petitioner for sending the cheque in question for forensic examination to FSL Madhuban was dismissed.

2. Shorn of non-essential details, the relevant factual matrix of the *lis* in hand is adumbrated, thus:

(i) The brief factual *milieu* of the case are that the respondent-complainant M/s Dhanda Trading Company, through its partner Ashok Kumar, filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 alleging that a sum of Rs.9,17,914/- was due towards the accused-petitioner, who, in discharge of his liability, issued a cheque dated



07.08.2019 for a sum of Rs.9,15,000/-. On presentation, the said cheque was returned unpaid with the remarks “Funds Insufficient.”

(ii) During the course of the proceedings before the Court below, the petitioner disputed the cheque amount and asserted that the cheque in question was actually issued only for a sum of Rs.15,000/- and that the complainant had tampered with the cheque by inserting the figure “9” and adding the words “Nine Lakhs” in Hindi. On that basis, the petitioner filed an application before the learned Magistrate seeking to send the cheque to the Forensic Science Laboratory, Madhuban, for determination of the alleged material alteration.

(iii) The said application was opposed by the complainant-respondent (herein) on the ground that the trial had already reached at an advanced stage and the opinion of the private handwriting expert was already on record as also that the application was a tactic only to delay the proceedings. After hearing the learned counsel for the rival parties, the Court below, vide the impugned order dated 08.07.2025, dismissed the application of the accused-petitioner by holding that sending the cheque in question to FSL would serve no useful purpose and would unnecessarily delay the trial.

(iv) It is in the above factual backdrop, the *petition in hand* has come up for adjudication before this Court.

3. Learned counsel for the petitioner has iterated that the impugned order passed by the Court below is illegal, arbitrary, and contrary to the settled principles of law. Learned counsel has further iterated that the petitioner has been deprived of his valuable right to fair trial which includes



the right to lead material defence evidence in support of his plea. Learned counsel has further submitted that the complainant has tampered with the cheque in question by adding the figure “9” in front of “15,000/-” and by inserting the words “Nine Lakhs” in Hindi in the amount column. It has been further submitted that in order to substantiate the *bona fide* plea of material alteration, the petitioner has moved an application before the Court below seeking to send the cheque in question to the Forensic Science Laboratory (FSL), Madhuban, for scientific examination and expert opinion which was essential for a just and fair adjudication of the case. However, the Court below has denied the said opportunity which has caused serious prejudice to the defence of the petitioner. According to learned counsel, instead of appreciating the necessity of expert opinion to ascertain the authenticity of the disputed cheque, the Court below has dismissed the application on untenable grounds. Learned counsel has prayed that the impugned order passed by the Court below deserves to be quashed and the cheque in question be send for forensic examination to FSL Madhuban.

4. *Per contra*, learned counsel appearing for the respondent-complainant has opposed the plea by arguing that the petition in hand is wholly misconceived and intended only to delay the proceedings pending before the Court below. Learned counsel has iterated that the issuance of the cheque in question and the signature thereon are admitted by the petitioner. Once the signature on the cheque in question is not denied, the statutory presumption under Sections 118 and 139 of the Negotiable Instruments Act, 1881 squarely operates against the accused-petitioner, who must rebut it through cogent evidence and not by making vague and belated



allegations of forgery. Furthermore, plea of the petitioner that the cheque in question has been issued only for Rs.15,000/- is a subsequent afterthought taken merely to evade his liability. Moreover, during trial, the accused-petitioner has every opportunity to cross-examine the complainant and lead defence evidence including any private expert opinion, which he has already done. Learned counsel has asserted that the application in hand for sending the cheque to FSL has been filed at a highly belated stage when the matter was fixed for final arguments. Such application, after full cross-examination and completion of evidence, is clearly intended to protract the proceedings. Learned counsel has further asserted that the Court below has rightly come to the conclusion that no useful purpose would be served by sending the cheque to FSL particularly when the report of private handwriting expert has already been placed on record and also that the petitioner has failed to demonstrate any material inconsistency or necessity for further examination. On the strength of these submissions, the dismissal of the instant petition is prayed for.

5. I have heard learned counsel for the parties and perused the record carefully.

6. It is not in dispute that the cheque in question was admittedly drawn from the account of the petitioner and bears his signature. The main defence taken by the petitioner is with respect to the alleged insertion of the figure “9” and the words “Nine Lakhs” in Hindi in the amount column. The Court below, while dismissing the plea of the petitioner for forensic examination, observed that the petitioner has already cross-examined the complainant on this issue and a private handwriting and fingerprint expert



has also submitted a report regarding whether any tampering has been done and hence referring the cheque in question to the FSL at this stage would serve no useful purpose and would only result in unnecessary delay. The Court below further observed that the application in hand has been filed at a belated stage of the trial.

7. It is not in dispute that the petitioner has already availed the opportunity to examine the handwriting/fingerprint expert during trial who has already submitted his expert report regarding any fraud, forgery and cheating done by the complainant. The trial Court duly considered the evidence and returned its finding. In the considered opinion of this Court, the power under Section 528 BNSS is to be exercised sparingly to prevent abuse of process or to secure the ends of justice. The plea of the petitioner for sending the cheque in question to FSL, at this stage, would amount to retrial and unnecessary delay. It is trite law that the right to fair trial is fundamental but it does not imply that an accused may repeatedly seek to introduce additional evidence when sufficient opportunity has already been granted and relevant material is available before the Court. In the present case, the Court below has recorded plausible reasons for declining the plea of the petitioner. Furthermore, the petitioner has not been able to demonstrate any material irregularity or manifest injustice warranting interference under the inherent jurisdiction of this Court. No illegality or perversity is found in the impugned order warranting interference by this Court. The Court below has rightly exercised discretion in rejecting the prayer of the petitioner for sending the cheque in question for forensic



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examination. In the considered opinion of this Court, the Court below has appropriately dealt with the application in question by dismissing the same.

8. In view of the prevenient ratiocination, it is ordained thus:

(i) The impugned order dated 08.07.2025 passed by the Judicial Magistrate Ist Class, Kurukshetra, does not call for any interference. The petition in hand deserves dismissal. Ordered accordingly.

(ii) Any observations made and/or submissions noted hereinabove shall not have any effect on the merits of the case and the Court below shall proceed further, in accordance with law, without being influenced therefrom.

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

(SUMEET GOEL)
JUDGE

November 06, 2025

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No