



CRM-M-46635-2025

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

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Date of decision: 26.08.2025

Sandeep Kumar

...Petitioner

V/s

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. P.S. Dhaliwal, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed seeking quashing of the order dated 17.07.2025 (Annexure P-5) passed by the learned Additional Sessions Judge, Barnala whereby the application filed by the petitioner (herein) - accused, under Section 311 of Cr.P.C. of 1973 seeking examination of the disputed cheque by Govt. Handwriting and Finger expert through the Government Forensic Science Laboratory, was dismissed

2. Learned counsel for the petitioner has iterated that the impugned order is contrary to both law and the material available on record. The application of the petitioner for examining the Govt. Handwriting and Finger expert has been erroneously dismissed by the Court below which has caused serious prejudice to the petitioner. Learned counsel has further submitted that the cheque in dispute was originally issued for Rs.90,000/- only which was subsequently altered to Rs.4,90,000/- by adding the word "four" in different handwriting and ink. Learned counsel has further iterated that though a private handwriting expert was examined during trial, who supported this plea but his testimony was discarded merely on the



ground that he was a private witness. According to learned counsel, the impugned order is *ex facie* unsustainable in law, being based on mere presumptions and conjectures. It has been further iterated that it is a settled principle of law that additional witness can be summoned in the interest of justice and to ensure a fair trial at any stage. It is further contended by learned counsel that the impugned order is cryptic and devoid of merit and thus, deserves to be set-aside. Hence, the petitioner seeks re-examination of the cheque by a Government expert to substantiate his defence. On the strength of aforesaid submissions, the grant of *petition in hand* is entreated for.

3. Keeping in view the nature of the matter especially the factum of the case in hand arising out of the criminal complaint filed under Section 138 of the Negotiable Instruments Act, 1881, this Court does not deem it appropriate to call upon the respondent(s) at this stage.

4. I have heard learned counsel for the petitioner and have perused the available record.

5. It would be apposite to refer herein to a judgment passed by this Court in case titled as ***Karamjit Singh vs. State of Punjab and another: 2024 NCPHHC 24178***; relevant whereof reads as under:-

“8.4 As an epilogue to the above rumination, the following principles emerge:

(I) The broad gamut for exercising power by a criminal trial Court under Section 311 of Cr.P.C. are as follows:

(i) The prime factor for considering a plea under Section 311 of Cr.,P.C. is as to whether such evidence “appears to be essential to the just decision of the case.”

(ii) Section 311 of Cr.P.C. can be invoked by a criminal trial Court even when cross-examination of a witness has earlier been foreclosed by a



Court order. Such exercise of power by the Court cannot be construed as the concerned Court recalling/reviewing its own order.

(iii) Section 311 of Cr.P.C. empowers a criminal trial Court to even allow further examination/cross-examination of a witness at instance of the prosecution/accused.

(iv) A criminal Court is well within, its judicial discretion, to summon any person as a witness at any stage of proceedings/trial etc. till such Court is seized of the matter.

(v) A criminal trial Court may exercise power under Section 311 of Cr.P.C. on an application made by a party to lis or on its own volition.

(vi) Successive application(s) for summoning same witness for examination/re-examination is not debarred but such a plea deserves to be dealt with exercising a higher degree of circumspection.

(II) No straight jacket formulae can be enumerated regarding mode, manner and extent of exercise of power under Section 311 of Cr.P.C by a criminal trial Court as every case has its own unique facts/circumstances. It is neither possible nor pragmatic to lay down any such exhaustive guide-lines as every case is sui generis in terms of factual conspectus.

(III) Needless to say that exercise of power under Section 311 of Cr.P.C. by a criminal trial Court should be undertaken by according cogent and lucid reasons, in accordance with basic principles of our criminal jurisprudence, for such exercise of its power.”

6. As per pleadings of the present case; the petitioner, being in dire need of money, took friendly loan amounting to Rs.4,90,000/- in cash from respondent No.2 and agreed to repay the same with interest @ 18% per annum. In order to discharge his liability, the petitioner issued cheque bearing No.000008 dated 18.09.2017 for an amount of Rs.4,90,000/- drawn on HDFC Bank Ltd. Branch Dhanaula. On presentation, the same was dishonoured with remarks “insufficient funds” which necessitated the petitioner to file a complaint under Section 138 of the NI Act. It was alleged therein that the cheque was dishonoured twice due to insufficient funds and despite demands, no payment was made by the accused. In defence, the petitioner claimed he had leased land from the brother of the complainant,

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paid part of the amount and issued a cheque of only ₹90,000/-. The accused-petitioner (herein) alleged the cheque amount was altered from Rs.90,000/- to ₹4,90,000/- by adding the word “four” and a handwriting expert supported this claim but the Trial Court rejected the report. After trial, the petitioner was convicted and sentenced to 2 years imprisonment with compensation of ₹4,90,000/- by the Additional Chief Judicial Magistrate, Barnala. Aggrieved, the petitioner filed an appeal before the Additional Sessions Judge, Barnala. During the pendency of the appeal, the accused-petitioner filed an application in hand and sought examination of the disputed cheque by a Government Fingerprint/Handwriting Expert. It was stated by the petitioner (herein) in the impugned application that he had taken land on lease from the brother of the complainant for which he had paid a certain amount and as a security, issued a cheque by mentioning the figure of Rs.90,000/-. However, on account of some dispute, the complainant (respondent No.2 herein) misused the said cheque by altering the amount. Though, before the trial Court/concerned JMIC, an opinion was also obtained from a handwriting expert who clearly stated that the cheque in question had been tampered. Despite this, the learned trial Court/JMIC discarded the report of the expert. Thus, the petitioner (herein) seeks permission to have the disputed cheque and other relevant documents examined by the Government Fingerprint & Handwriting Expert. The plea was opposed by the complainant (respondent No.2 herein) on the ground that the report of Handwriting and Fingerprint Expert already stand discarded by the trial Court and thus, sought dismissal of the application. After considering the rival contentions, the application was dismissed by the



appellate Court on the ground that the accused-petitioner had already examined a private expert and the request was only to fill up lacunae.

7. It is not in dispute that the petitioner had already availed the opportunity to examine a handwriting/fingerprint expert during trial. The trial Court duly considered the evidence and returned its finding. The mere rejection of the report cannot entitle the petitioner to summon another expert at the appellate stage with a view to have a second opinion. Entertaining such a request would amount to allowing the accused to fill up lacunae in his defence, which is impermissible in law. Although, the power under Section 311 Cr.P.C. is indeed wide and discretionary but such power must be exercised judiciously and not in a routine manner, especially in the absence of any cogent justification. In the considered opinion of this Court, the appellate Court has rightly dismissed the application. No illegality or perversity is found in the impugned order warranting interference by this Court. In the factual milieu of the case, the application in hand appears to be an afterthought and lacks *bona fide*.

8. For the foregoing reasons, this Court does not find any error in the impugned order passed by the appellate Court. In the considered opinion of this Court, the appellate Court has appropriately dealt with the application in question by dismissing the same.

9. In view of the above ratiocination, it is directed as follows:

(i) The impugned order dated 17.07.2025 passed by the Additional Sessions Judge, Barnala, does not call for any interference and deserves dismissal.

Ordered accordingly.



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

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

(SUMEET GOEL)
JUDGE

August 26, 2025
Ajay

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