GAHC040018172026

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : Crl.Rev.P./19/2026

Smti Mipet Tayeng
Daughter of Shri Kokok Tayeng, resident of Sille Village, PO Oyan, PS Sille Oyan Sille, East Siang District, Arunachal Pradesh.

VERSUS

The State of AP and Anr
represented by the PP of AP 2:Ms Mama Tang
Age: 0
Occupation :
Daughter of Late K Tang
resident of E Sector
Naharlagun
PO and PS Naharlagun
Papum Pare District
Arunachal Pradesh

Advocate for the Petitioner : Tabit Tapak, Omeng Taga,Taloh Tabing,Bebeng Siboh,Aso Dalbong

Advocate for the Respondent : P P of AP,

Linked Case : Crl.Rev.P./20/2026

Smti Mipet Tayeng
Age: 47
Occupation :
Address:Daughter of Shri Kokok Tayeng
resident of Sille Village
PO Oyan

PS Sille Oyan Sille
East Siang District
Arunachal Pradesh.

VERSUS

The State of AP and Anr
Age: 0
Occupation :
Address:represented by the PP of AP
2:Smti Goken Tang
Age: 0
Occupation :
Address:Wife of Late K Tang
resident of E Sector
Naharlagun
PO and PS Naharlagun
Papum Pare District
Arunachal Pradesh.

Advocate for : Tabit Tapak
Advocate for : P P of AP appearing for The State of AP and Anr: Advocate , appearing for 2, respectively.

BEFORE
HONOURABLE MRS. JUSTICE YARENJUNGLA LONGKUMER

04.11.2026 **ORDER**

The instant application under Section 438 read with Section 442 of the BNSS, 2023 has been preferred by the petitioner praying for setting aside and quashing the impugned order dated 28.09.2026 passed by the learned JMFC, Naharlagun rejecting the Crl. Misc. Case No. 593/2026 filed by the petitioner praying for sending the disputed signature ad handwriting over the cheque bearing No. 021994 for Rs.84Lakhs and also the disputed signature and handwriting over the purported undertaking dated 10.05.2022, for expert opinion.

2. Heard Mr. T. Tapak, learned counsel for the petitioner and Mr. T. Ete, learned Addl. PP appearing for the State respondent.

3. The case of the petitioner herein is that the petitioner is the accused in Complaint Case No. 78/2022 which was instituted by the respondent No. 2 before the learned JMFC, Naharlagun. The complaint was with regard to recovery of Rs.84Lakhs out of which Rs.20Lakhs was paid through cheque and Rs.64Lakhs was paid in cash.

4. The basis of the claim of Rs.84Lakhs by the complainant was that the accused petitioner had issued a cheque bearing cheque No. 021994 from the Bank of India, Itanagar Branch. The said cheque is supported by an undertaking dated 10.05.2022 allegedly signed by the accused petitioner. The petitioner entered appearance and disputed the genuineness of the signature over her cheque and the handwriting filling up the cheque and also the supporting undertaking, on the ground that it was not her signature or handwriting.

5. The petitioner in her 313 Cr.P.C. statement before the learned Trial Court clearly defended that she has never issued any cheque to the complainant nor she had any business connection with the complainant but only with her mother Smti. Goken Tang who is the mother of the complainant/ respondent No. 2 as the cheque was

issued as a security during the course of business in between the mother of the complainant and the petitioner. Therefore, the said cheque had never been issued to the complainant at any point of time for payment of any liabilities.

6. It is also submitted that the complainant's evidence/PW's has already been closed during which the complainant has examined 4 (four) witnesses). The complainant witness No.3, a Bank employee has clearly stated during the cross-examination that he has verified the signature maintained in the bank with the cheque and was found to be correct. However, the petitioner claims that the signature over the cheque does not belong to her.

7. In view of the disputed facts, the petitioner filed the application praying for expert opinion over the disputed signature on the cheque as well as the handwriting over the cheque and the supporting undertaking.

8. It is also the case of the petitioner herein that she had filed the Crl. Misc Case No. 593/2026 before the JMFC, Naharlagun under Section 266 (2) of BNSS, 2023 seeking for a direction for expert opinion over the disputed signature in the cheque bearing No. 021994 for Rs.84Lakhs and also the signature and handwriting over the supporting undertaking dated 10.05.2022. However, the learned Trial Court rejected the said application on the ground that the filling up of details by anyone other than the accused is immaterial

and that the signature on the cheque belongs to the accused who has admitted by putting her signature.

9. The learned Trial Court by relying on the case of ***Bir Singh***-vs-***Mukesh Kumar***; reported in ***(2019) 4 SCC 197***, held that the cheque being filled by any person other than the drawer is immaterial if the cheque is duly signed by the drawer. Being aggrieved, the petitioner has approached this Court.

10. Per contra, the learned Addl. PP Mr. T. Ete appearing for the State respondent has argued that the scope of this Court in a revision is very limited. He has submitted that this Court can interfere with the order of the Trial Court only if the order had been passed without jurisdiction, or it is perverse, or there is manifest error, or it is arbitrary and reflects total non-application of mind. The learned Addl. PP relying on the cases of ***Shubhwati***-vs-***Alka Rastogi***; reported in 2025 SCC OnLine Del 6743 as well as the case of ***Manda Syamsundar***-vs-***Kurella Anjaneyachari & Anr***; reported in 2008 ALL MR (Crl.) Journal 269 submits that the Hon'ble Delhi High Court as well as the Andhra Pradesh High Court in the above cited cases have held that the presumption under the NI Act, though, rebuttable operates in favor of the respondent. It is for the accused to rebut such by leading appropriate defence evidence and the Court cannot be expected to assist the accused to collect the evidence on his behalf. It is submitted that the cheque bounced not on account of the fact that the petitioner's signature was not

tallying with the specimen signature of the appellant kept with the bank, but on account of insufficient funds. The signature of the appellant was not objected to by the bank, but the same was returned with the remark 'insufficient funds' This circumstance clearly shows that the signature on the cheque was that of the petitioner.

11. In the above cited cases, the Court held that if the reasons for dishonour was for mis-match of the signature then the accused could have been justified in seeking examination of the disputed cheque through a handwriting expert. However, in the circumstances, when there is no issue of signature mis-match, there is no justification for allowing the handwriting to be examined by a expert to prove the signature. It was also held that a prayer to seek the cheque to be sent to a handwriting expert is completely unwarranted and that the accused is at liberty to adduce any evidence in support of her defence. It was also held by the Delhi High Court in the case of ***Shubhwati*** (supra) that the application for seeking expert opinion had been rightly dismissed by the learned Trial Court by observing it to be not only belated, but also being without merit.

12. Similarly, in the instant case, the learned Addl. PP has taken this Court to the deposition of the complainant witness No. 3 who is the representative of the Manager of the Bank of India, Itanagar Branch. The CW No. 3 deposed that the cheque in question

belonged to the petitioner and he had accepted the cheque bearing No. 021994 dated 10.05.2022 for an amount of Rs.84Lakhs in favor of Mama Tang. In the cross-examination by the defence, the CW No.3 deposed that the signature of the petitioner was verified with the one maintained at the bank The learned Addl. PP also referred to the 313 Cr.P.C. statement of the petitioner. On being asked, whether the cheque bearing No.021994 was issued by the petitioner, the petitioner replied that he had given the cheque to the mother of Mama Tang as security for a loan of Rs.30Lakhs.

13. In view of the above, the learned Addl. PP submits that the signature on the cheque was never in dispute and he further submits that the case is now at the final argument stage and the petitioner has been given an opportunity to adduce her evidence. As held by the learned Trial Court, there was no necessity for the Trial Court to send the signature for expert opinion. Moreover, the learned Addl. PP submits that the learned Trial Court has the discretion to refuse an application for expert opinion inasmuch as, the accused/ petitioner does not have an absolute right to have the cheque referred to a handwriting expert merely by disputing the signature.

14. This Court has duly considered the submissions made by the learned counsel for the parties and also perused the pleadings and the documents relied upon. The revision jurisdiction of this Court is

primarily supervisory and corrective. It is intended to prevent miscarriage of justice, to correct jurisdictional errors and to ensure legality, propriety and regularity of criminal proceedings and not function as a second appellate Court. This Court in a revision cannot reappreciate the evidence as if hearing in an appeal, or substitute our own factual findings merely because another view is possible.

15. In a revision challenging the rejection of an application to send a signature in a cheque for expert opinion, the question is whether the learned Trial Court refusal was based on correct understanding of the law and whether the Trial Court has considered the materiality of the disputed signature and whether the Trial Court had taken account of the right of the accused to rebut the statutory presumption. This Court has also to see whether the impugned order has resulted in a patent illegality, arbitrary exercise of discretion or miscarriage of justice. Only on such grounds, the impugned order can be interfered with by this Court.

16. Upon going through the records, this Court is in agreement with the submission of the learned Addl. PP that the concerned cheque bearing No. 021994 was dishonored due to insufficient funds and not because of mismatch in the signature. As held by the Delhi High Court in the case of ***Shubhwati*** (supra) and by the Andhra Pradesh High Court in the case of ***Manda Syamsundar*** (supra), in the instant

case also there is no justification for allowing the handwriting or the signature to be sent for expert opinion. Further, the petitioner had already examined herself as a defence witness. Since it was her defence that the handwriting in the cheque and the disputed undertaking is not her signature or her handwriting, nothing prevented her from moving an application at the stage of her defence evidence. Admittedly, the case is at the stage of final argument.

17. It is a settled position of law that sending a disputed cheque/signature for handwriting expert opinion in a Negotiable Instruments case is not mandatory in every case.

18. The learned Trial Court has to exercise its judicial discretion, considering the facts and circumstances of each case. In the case of ***Bir Singh*** (supra), which has been relied upon by the learned Trial Court, the Hon'ble Supreme Court had held that the presumption under Section 139 of the NI Act arises when the drawer admits the signing and handing over the cheque. Whether the accused filled in the cheque particulars was immaterial in determining whether it was issued towards debt or liabilities. The handwriting expert opinion would not rebut the statutory presumption merely by showing that particulars were filled in by someone else. Consequently, it was held that allowing the expert examination served no useful purpose in the circumstances.

19. This Court upon examining the impugned order dated 28.09.2026 is of the considered view that it is a reasoned order based on the facts and does not warrant the interference of this Court in a revision. Moreover, the case is also now at the final arguments stage and the petitioner could have the remedy of filling an appropriate application against the final order as and when it is passed.

Resultantly, this revision petition is dismissed at the motion stage, itself as being without merit.

JUDGE

Checked & verified

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