HIGH COURT OF JUDICATURE AT ALLAHABAD

APPLICATION U/S 528 BNSS No. - 38665 of 2026

Mohd Shakir

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite Party(s)

Counsel for Applicant(s)	:	Amir Khan
Counsel for Opposite Party(s)	:	G.A.

Court No. - 81

HON'BLE PRASHANT MISHRA-I, J.

1. Heard Mr. Amir Khan, learned counsel for the applicant and learned A.G.A. representing the State.

2. Prayer of the applicant in the instant application is quoted herein below:

"*It is, therefore, Most Respectfully prayed that this Hon'ble Court may kindly be pleased to allow this application and further may kindly be pleased to quash the impugned order dated 12.08.2026 passed by the learned Civil Judge (Junior Division)/F.T.C. (C.A.W.), Budaun in Complaint Case No.2467 of 2016 (Sadik Husain vs. Mohd. Shakir), under Section-138 of Negotiable Instruments Act, Police Station-Ujhani, District-Budaun.*

It is, further prayed that this Hon'ble Court may kindly be pleased to stay the further proceedings of Complaint Case No.2467 of 2016 (Sadik Husain vs. Mohd. Shakir), under Section-138 of Negotiable Instruments Act, Police Station-Ujhani, District-Budaun, pending before the Court of learned Civil Judge (Junior Division)/F.T.C. (C.A.W.), Budaun.

It is also further prayed that the learned Trial Court may be directed to call the report of handwriting expert regarding cheque number 005815 bearing Account No.913010016817878, for proper adjudication of the case, in the interest of Justice.

And/or may pass such other orders as this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

"

3. Learned counsel for the applicant submits that the trial before the learned trial court concerned is in its advanced stage and the accused-applicant only filled up the account number and signed the cheque in question. No amount or name was filled up on the cheque by the applicant. Learned counsel for the applicant also submits that the applicant only signed a blank cheque which was misused by opposite party No. 2. The applicant, in his statement recorded under Section 313 Cr.P.C., has also taken the plea that the handwriting on the cheque pertaining to the name of the payee and the amount should be examined by handwriting expert, and for this purpose, the accused-applicant presented an application dated 18.04.2026 before the learned trial court with the aforesaid prayer to examine the handwriting on the cheque by an expert, which was rejected by the learned trial court vide its impugned order dated 12.08.2026.

4. It is also submitted by the learned counsel for the applicant that the accused-applicant has been examined in the aforesaid trial as DW-1 and if the handwriting of the cheque is not examined by the learned trial court he would suffer irreparable injury. Learned counsel for the applicant placed reliance on the judgment of the Hon'ble Apex Court in the case of ***Gopal Pathak Vs. Nitin Alias Pappu and Another, 2026 INSC 1085***, in which the Hon'ble Apex Court has held that the law gives discretion to the Court concerned to form an opinion as to whether it would itself compare the signatures on its own or seek an expert opinion, in case there is any doubt regarding writing or impression on the impugned documents.

5. On the other hand, learned A.G.A. opposed the contentions raised by learned counsel for the applicant and submitted that the learned trial court vide its impugned order dated 12.08.2026 has rightly rejected the application moved by the accused-applicant. Learned trial court has considered all the relevant factors and passed a reasoned order regarding the same. The accused-applicant is just trying to delay the completion of trial and hence the application dated 18.04.2026 was moved by the accused-applicant.

6. Since the accused has taken the plea in his statement under Section 313 Cr.P.C. and questioned the handwriting on the cheque, therefore, in view of the ruling of the Hon'ble Apex Court as quoted above, the impugned order dated 12.08.2026 passed by the learned trial court is **set aside** and the learned trial court concerned is directed to compare the handwriting etc. on the impugned cheque on its own afresh, and then proceed with the trial accordingly.

7. With the aforesaid directions, the instant application stands **disposed of**.

(Prashant Mishra-I,J.)

October 29, 2026
Kashifa

Digitally signed by :-
KASHIFA
High Court of Judicature at Allahabad