

KACD510003942018



Presented on : 12-03-2018
Registered on : 12-03-2018
IA No.III filed on : 26-02-2026
IA No.III decided on : 02-05-2026
Duration : 2 months, 6 days

**IN THE COURT OF PRL. CIVIL JUDGE AND JMFC,
HOSADURGA**

**Presided Over by: Sri. PRASANNA KUMAR C.
B.A.L.,LL.B.,
Prl.Civil Judge & JMFC, Hosadurg**

Dated this the 2nd day of May, 2026

C.C. No.120/2018

BETWEEN:

Sri.Guru Oppathina Pattina Sahakara Sangha
Niyamitha, Hosadurga Branch

.....Complainant.

(By Sri. H.N.Madhusudhan Advocate for Complainant)

AND:

Sri. K.Dhananjaya
S/o Late A.N.Kadurappa

.. Accused

(Sri. H. Lakshmi Narayana, Advocate for Accused)

Provisions of Law of I.A.No.III	Under Section 45 of Indian Evidence Act R/w Section 243 of Criminal Procedure Code
Relief sought for on I.A.No.III	Referring the signatures to the Handwriting expert

Date of application filed by the Accused	26.02.2026
Number of the application	III
Date of objection filed by the complainant	07.03.2026
Date of order	02.05.2026

ORDERS ON IA No.III

This application is filed by the accused when the case was posted for evidence of the Accused Under Section 45 of Indian Evidence Act R/w section 243 of Criminal Procedure Code seeking for referring the alleged signature of the accused on the cheque in question along with his specimen signatures to the Handwriting Expert, Directorate of Forensic Science Laboratory, Bangalore for comparison of both the signatures for opinion and report.

2. In the affidavit filed in support of the application it is contended by the accused that the complainant bank had received 4 cheques for the purpose of legal opinion for estimation of building and for documentation, but the complainant bank has misused the cheque and forged the signatures of the accused on cheque and also over written on the cheque and thus have withdrawn 28,00,000/- through the account No.3479/SB and the complainant banker have shown Rs.30,00,000/- as mortgaged loan. But the complainant Bank has not given any loan to the accused as mentioned in the audit report for the year 2012-2013.

3. The accused further submits that he is ready to provide specimen signatures (admitted signatures) and the disputed

signatures on the cheque to find out the genuineness. It is also alleged by the accused that complainant bank has forged the signatures of accused and over written on his cheque. Since the signature on the cheque is disputed by the accused, it is just and necessary to refer the same to the Forensic Science Laboratory at Bangalore for comparison and opinion. Hence, this application.

4. The complainant has filed common common objection to this application as well as IA No.II by contending that the present application is not maintainable. As per section 73 of Indian Evidence act, this court itself can compare both the admitted and disputed signatures. Hence, in the case in hand, if the accused was desirous of proving his signatures as appearing on the cheque issued from his account was not genuine, then he could have procured the certified copy of his specimen signature from the bank and a request could have been made to summon the concerned bank official in defence for giving evidence regarding the genuineness or other wise of the signature on the cheque. In this case the accused person has already cross-examined the Bank Official/PW-2 on 14.11.2025. Hence, there is no requirement for referring the cheque in question to the Handwriting Expert. As such, the complainant has sought for dismissal of the application.

5. Basing on the application and objection statement, the following points would arise for consideration of this court.

Points

1. Whether the accused has made out grounds for referring the signatures for comparison and opinion of hand writing expert ?

2. What Order ?

6. Heard arguments. On the basis of application, objection statement and all the materials available on record, answer of this court to the above Points is as under:

Point No.1: In the Negative

Point No.2: As per final order
for the following:

REASONS

7. **Point No.1:** This complaint is registered by the complainant against the accused for commission of the offence punishable Under Section 138 of Negotiable Instruments Act. As stated by the complainant and accused, the evidence of both side parties is already concluded.

8. As could be seen from the examination-in-chief of accused, he has not stated in his examination-in-chief regarding forging of cheque or manipulation of the same, but he has stated that cheque has been misused by the bank. Further, in order to get the said ambiguity cleared the Accused himself has earlier cross examined the manager of the State Bank of India who was

examined as PW-2. PW-2 in his evidence has deposed that the signature of the accused in Ex.P-11 specimen signature and signature appearing on the Ex.P-1 cheque are one and the same. PW-2 has also deposed that if there are any variations in the signature on the cheque they will issue endorsement to that effect.

9. Having perused the evidence already available on record, this court on verification of the signatures of the accused on the cheque and other admitted signatures on the documents, is of the view that this court can compare the signatures as provided under Section 73 of Indian Evidence Act to arrive at proper conclusion in either way. In this case, the forgery of signature as alleged by the accused found to be his defense and there is no any strong evidence as of now available in the record. Therefore, this court on considering all the materials available on record both oral and documentary evidence is of the opinion hat this court itself can come to proper conclusion regarding the signature of the accused for which there is no necessity of referring the same to hand writing expert for opinion. Hence, the accused has not made out any ground and grounds urged are unreasonable and unsustainable. Hence, the application deserves to be rejected. Accordingly, this court answered Point No.1 in the **Negative**.

10. **Point No.2:** For the foregoing reasons and discussions made above, this court proceed to pass the following:

ORDER

- IA No.III filed by the accused under section 45 of the Indian Evidence Act R/w Section

243 of the Criminal Procedure Code is
hereby rejected.

- No order as to costs.

(Dictated to the stenographer, transcribed by her, transcription corrected by me and
then pronounced in the open court on this the 2nd day of May, 2026)

(Prasanna Kumar C.)
Prl. Civil Judge & JMFC,
Hosadurga.