

KAHS810020492021



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CC No. 1250/2021

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

**:-Present:-**

**SRI LAKSHMI NARASIMHA R.V**, B.A.L., L.L.B.,

Prl. Civil Judge & JMFC., Sakaleshpura.

**Dated this the 29<sup>th</sup> day of January, 2026**

**CC No.1250/2021**

**Petitioner** : Sri. Hrushikesh N.P.

V/s

**Respondent** : Smt. Bharathi M.A.

**ORDERS ON APPLICATION FILED BY THE ACCUSED**  
**UNDER SECTION 311(A) OF CR.P.C. R/W SECTION 45 OF**  
**EVIDENCE ACT**

The accused has filed this application to send the original cheque and Vakalath and specimen signature of the accused to the FSL for hand writing expert opinion.

2. It is stated in the application that the complainant has filed this case against the accused for the offence punishable under section 138 of NI Act. The very contention of the accused is that the signature in cheque in question at



Ex.P.1 is not belonging to the accused. Accused does not know English. The signature on the cheque is in English language. As such, it is very much necessary to refer the cheque in question and other documents to the FSL for hand writing expert. Accordingly, prayed allow the application.

**3.** The complainant has filed objections to the application and contended that he has filed the present case against the accused for the offence punishable under section 138 of NI Act. The accused has submitted in the cross examination that cheque in question is belonging to her and she has handed over in favour of the complainant. Thus, the presumption lies in favour of the holder of cheque. The accused has to rebut the same. The bank vide endorsement dated 08.07.2021 has stated that “Drawer’s signature differs from the specimen recorded with us”. As such, the complainant has filed the present case. As the accused admitted that the cheque in question is belonging to her,



referring the signature for hand writing expert is not warranted. Accordingly, prayed to dismiss the application.

4. Heard arguments and perused the records. The counsel for accused has relied upon the following decision.

a) 2022 LiveLaw (SC) 714, (Oriental Bank of Commerce V/s Prabodh Kumar Tewari)

5. The following points would arise for the determination:

1. Whether the present application as sought by the accused for hand writing expert is necessary for the proper adjudication ?

2. What order?

6. The findings on the above said points are under:

**Point No.1** : In the *Affirmative*

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



### **REASONS**

7. **Point No.1 :-** The complainant has filed the present case against the accused for the offence punishable under section 138 of NI Act. On perusal of cross examination of PW-1 and chief examination of DW-1, the accused has specifically taken the contention that the cheque in question was issued to the complainant by way of security towards the hand loan availed in the year 2018. Whereas she has not signed the cheque but issued blank cheque. Upon the repayment of the loan, when she approached the complainant to return the cheque, he failed to do so. On the other hand, the complainant has contended that the accused has admitted the cheque in question is belonging to her, hence the presumption lies in favour of the complainant. No doubt, the accused has admitted that the cheque in question is belonging to her. Whereas she has stated that she does not know English and the signature found on the cheque is not belonging to her.



8. At the time of arguments, the learned counsel for complainant has relied upon the supra cited decision and contended that when the accused has admitted the cheque, it is not necessary to refer the cheque for the expert opinion. On perusal of said decision, it appears that in the said case the accused had admitted the signature but denied the hand writing. Hence, the hand writing expert opinion was denied. Whereas in the case on hand, the accused has denied the very signature in the cheque in the question. In catena of decisions, the Hon'ble Supreme Court of India has held that when the signature of the parties is in dispute it is preferable to collect the expert opinion in order to adjudicate real crux of the issue in question. As such, this court in opinion that the decision relied by the learned counsel for complainant is not applicable to the facts of the case. With these observations, this court is of the opinion that the accused has made out the grounds



the allow the application. Accordingly, point No.1 is answered in the *Affirmative*.

**9. Point No.2 :-** For the above discussed reasons, this Court proceeds to pass the following;

**ORDER**

The application filed by the accused under order 311(A) Of Cr.P.C. R/W Section 45 of Evidence Act is hereby allowed.

The handwriting expert, FSL, Madivala, Bengaluru is hereby appointed as court commissioner to submit the report as enumerated in the application with respect signature in the cheque, vakalath and specimen signatures.

The accused is hereby directed to produce the original documents having her signature pertaining to nearby of the year 2020-2021 for the purpose of comparison.

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To deposit court commissioner fee and  
report R/by 09.02.2026.

[Dictated to the Stenographer directly on computer and then corrected by me  
and thereafter pronounced in the open court on this the 29<sup>th</sup> day of January 2026]

(Lakshmi Narasimha R.V.)  
Prl. Civil Judge and JMFC.,  
Sakaleshpura.