

**IN THE COURT OF SPECIAL JUDGE, WOMEN
ATROCITY AND DOWRY CASES, SRIGANGANAGAR**

Presiding Officer : Smt. Sandeep Kaur, RJS
DJ Cadre

Session Case No. : 56/16
CIS No. : 58/2016
FIR No. 103/16 PS : Ghamurwali

State

Vs.

Rakesh Kumar etc.

Representation

- 1- Mr. Shree Ram Verma, Mr. Kishor Swami
Advocate for Accused
- 2- Mr. Krishan Alipura Spp.PP for State.
- 3- Mr. Raji Ram Advocate for Complainant.

ORDER

Dated : 13-03-2020

By this order of mine, I shall dispose of the objection taken by the learned counsel for the accused during the course of examination of the witness PW-9 Suresh Kumar Mehta. The objection of the learned counsel pertains to admissibility of the document, the report relating to accounts of both the accused with the Bank . It has been contended by the learned counsel that the document has neither been written nor signed by the witness. The further contention of the learned counsel for the accused is that the concerned document has not been executed in the presence of the witness. On the contrary, the learned Special PP and learned counsel for the complainant have argued that the document is in the handwriting of Gourav Gupta who is a subordinate officer of the witness. It has been further argued by them that the witness is acquainted with the handwriting and signature of the concerned subordinate officer, Gourav Gupta.

In order, that the evidence of a non-expert witness as to the handwriting may be admissible under Section 47 Indian Evidence Act, it must be established that he is familiar or acquainted with that person's handwriting, though it may not be necessary to establish in the first instance as to how the witness became acquainted with such handwriting. The word habitually occurring in S. 47 means 'usually', 'generally', or according to custom. It does not refer to the frequency of the occasions but rather to the invariability of the practice.

A record-keeper, who in the course of his official duty has to file papers sent to him, is competent to testify to the

handwriting of a person whose papers are so filed, though the number of such papers may not be numerically great. **Emperor v. Ponde, (No. 2), (1925) 27 Bom LR 1031.**

A person who knows the initials of a person signing a document is competent to swear to the document. **1964 Mad WN 356 : 1966 Mad LW (Cri) 217.**

The witness PW-9 Suresh Kumar Mehta, in his examination in chief has deposed as to the fact of his acquaintance with the signature of the writer of the document in question. He has cited the reasons for the same- due to his position of a superior in official hierarchy to that of the writer. In the light of the above discussion, it is explicit that the witness had become acquainted with the handwriting and signature of the writer of the document, Gourav Gupta during the ordinary course of business of bank. Due to the witness' acquaintance with the handwriting and the signature of the writer, his deposition as to the signature and handwriting of the writer of the document in question is admissible as per the provisions of section 47 Indian Evidence Act. Therefore the objection of the learned counsel for the accused does not merit sustenance. As such, the objection is dismissed. The witnesses is allowed to exhibit the document in question.

(Sandeep Kaur)

The order has been dictated and pronounced in the open court on 13.03.2020

(Sandeep Kaur)