

**IN THE COURT OF TINA MALHOTRA, JUDICIAL
MAGISTRATE FIRST CLASS, COURT NO. 3, HAMIRPUR,
DISTRICT HAMIRPUR, H.P.**

Cr.MA Regd. No. 91-2020 in Complaint Regd. No. 317-2017

Siksha Matoo Vs Kultar Singh

28.07.2025.

Present : Sh. Neeraj Mankotia, Ld. Vice Advocate for
Complainant.

Sh. Karam Chand Jassal, Ld. Advocate for Accused.

An exemption application is moved on behalf of accused which is considered and allowed for today only. Heard. This order shall dispose of an application under Section 45 of Indian Evidence Act moved on behalf of the accused. It is averred that the accused has produced audio recording in a CD during the evidence of the complainant and special power of attorney of the complainant has denied the voice recorded in the CD. By way of present application, accused intends to obtain an expert opinion for proper adjudication of the complaint.

2. Per contra, it is contended by the complainant/respondent that the present application is not maintainable and the said compact disc has not been proved by the accused in the Court and no compliance of Section 65B of Indian Evidence Act is made. Submitting that there is no need for expert opinion, it is prayed that the application be dismissed.

3. This Court has heard the submission of the Ld. counsel for the respective parties.

4. From the perusal of the entire record, it appears that the complainant preferred a complaint against accused Kultar Singh in 2017 on the ground that the accused had issued a cheque for Rs. 3,50,000/- which, on presentation, was dishonoured for reason 'payment stopped by drawer'. On finding a prima-facie case, Notice of Accusation was put upon

the accused and at the same time, the accused moved an application under Section 145(2) of Negotiable Instrument Act, praying that he be granted permission to examine the complainant and his witnesses on the ground that the complainant has filed a false case and necessary permission be granted. The needful was done by the Court on 02.02.2018 and after the evidence of the complainant, the statement of the accused under Section 313 of Cr.PC was recorded. Without commenting on the merits of the case, the accused denied his liability and the case was listed for DWs at which stage the present application was preferred. Though, the contents of the CD were put to CW-1, however, the said CD has not been led in evidence or proved in accordance with law. The question of granting permission to obtain the voice sample of the complainant and the special power of attorney holder seems secondary as the authenticity of the very compact disc is under cloud as there is no foundation to seek voice comparison. In view of the aforementioned observation, no permission can be granted to take voice sample of the complainant for obtaining an expert opinion on a CD which has not been made a part of evidence till date, accordingly, the application is dismissed. Be disposed of and after due completion, be tagged with the main case file for record. Let the case be now listed for Dws for 01.09.2025, subject to exceptional last opportunity, failing which the opportunity shall be closed by the Court order. Steps, if any, in 7 days.

(Tina Malhotra)
Judicial Magistrate First Class
Court No. 3, Hamirpur, H.P.