



2026:CGHC:2998

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 889 of 2023**

Madhusudan Mishra S/o Late Ram Bharosa Mishra Aged About 63 Years
R/o Prayag Kunj, Bajrang Chowk, Santoshi Nagar, P.S. Tikrapara,
District : Raipur, Chhattisgarh.

... Appellant**versus**

State of Chhattisgarh Through P.S.- Golbazar, Raipur, District- Raipur
Chhattisgarh.

... Respondent

For Appellant : Mr. Akash Kumar Kundu, Advocate

For Respondent : Mr. Nitansh Kumar Jaiswal, Deputy Govt. Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice**Judgment on Board****19.01.2026**

1. Heard Mr. Akash Kumar Kundu, learned counsel for the appellant.
Also heard Mr. Nitansh Kumar Jaiswal, learned Deputy Govt.
Advocate for the respondent / State.
2. This criminal appeal is filed by the appellant under Section 14A(1)
of the Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the order dated 09.03.2023 passed by
the learned Special Judge SC/ST (Prevention of Atrocities) Act,



Raipur, District- Raipur, in Special S.T. No. 25/2019 by which the application filed by the appellant under Section 45 of the Indian Evidence Act, 1872, has been dismissed.

3. The facts of the case, in brief, are that the complainant, Khelan @ Khilawan, lodged a complaint against the present appellant/accused alleging fabrication of documents and forgery of an agreement of sale in favour of the appellant by affixing false signatures of the complainant and other witnesses. Pursuant thereto, an FIR was registered against the appellant for the offences punishable under Sections 420, 467, 468, 471 and 384 of the Indian Penal Code and Sections 3(1)(p) and 3(2)(v-a), (vi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. After submission of the final report, charges were framed and the trial commenced. Upon completion of the prosecution evidence, during defence evidence, the appellant produced the original agreement dated 19.06.2008, which is alleged to be forged, and moved an application under Section 45 of the Evidence Act for examination and comparison of the signatures of Kartik Banjare, a witness to the said agreement. However, the learned trial Court, vide the impugned order, dismissed the said application holding it to be unnecessary, which, according to the appellant, amounts to an error of law and fact as the said evidence is vital for the defence, hence the present appeal has been filed.
4. Learned counsel for the appellant submits that the learned trial Court has dismissed the application filed by the appellant under



Section 45 of the Evidence Act without due application of judicial mind, on an erroneous premise that the appellant was attempting to collect evidence against the witness Kartik Banjare. It is submitted that since the agreement dated 19.06.2008 is alleged to be forged, examination and comparison of the signatures of Kartik Banjare, who is a witness to the said agreement, from the original document is imperative for the defence of the appellant. He further submits that the complainant has relied upon the handwriting expert report of S. Dhenge, which is based merely on a photocopy of the agreement marked as Exhibit P/4, and therefore, it was crucial for the appellant to rebut the said expert opinion by seeking examination of the signatures from the original agreement. It is contended that the appellant, being the accused, is legally entitled to seek expert opinion as a valuable right of defence and as an integral part of a fair trial, and denial of such opportunity amounts to violation of the principles of natural justice as well as Article 21 of the Constitution of India. The impugned order, therefore, suffers from serious errors of law and fact, inasmuch as the learned trial Court failed to appreciate that permitting expert examination would subserve the larger object of fair trial and that the appellant cannot be denied an opportunity to discharge the burden cast upon him by law, and hence, the impugned order deserves to be set aside.

5. On the other hand, learned State counsel, appearing for the respondent opposes the prayer made by the learned counsel for the applicant and submits that there is no illegality or infirmity in the order passed by the learned trial Court.



6. I have heard learned counsel for the parties and perused the documents appended with the appeal.
7. From the perusal of the impugned order, it transpires that the complainant, Khelan @ Khilawan, lodged a complaint against the present appellant/accused alleging fabrication of documents and forgery of an agreement of sale by affixing false signatures of the complainant and other witnesses, pursuant to which an FIR was registered for the said offences under the Indian Penal Code and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. After submission of the final report, charges were framed and the trial commenced, whereupon the prosecution evidence was duly concluded. During defence evidence, the appellant moved an application under Section 45 of the Evidence Act seeking examination and comparison of the signatures of witness Kartik Banjare through a handwriting expert, relying upon the original agreement dated 19.06.2008, contending that the complainant had relied upon the handwriting expert report of S. Dhenge based on a photocopy of the agreement marked as Exhibit P/4. The learned trial Court, after due consideration of the stage of the trial, the nature of allegations and the material already available on record, rightly dismissed the said application holding that such examination was not essential for the just adjudication of the case and that the appellant cannot be permitted to fill up lacunae in his defence under the guise of rebutting the expert opinion. The learned trial Court thus exercised its discretion judiciously and in accordance with law, and the impugned order neither suffers from



any illegality nor violates the principles of fair trial, as the appellant was afforded adequate opportunity to defend himself.

8. Considering the facts and circumstances of the case, the stage of the trial, and the material available on record, this Court finds no illegality or infirmity in the impugned order passed by the learned trial Court. The application under Section 45 of the Evidence Act was rightly rejected as the proposed expert examination was not essential for the just decision of the case and was sought at a belated stage to fill up lacunae in the defence. The learned trial Court has exercised its discretion judiciously and in accordance with law. Accordingly, the present appeal deserves to be and is hereby **dismissed**. The interim order if any stands vacated.
9. It has been informed that the trial court record has summoned the records which is enclosed with this appeal. As the matter pertains to the year 2019 and trial is still pending in the case, Registrar (Judicial) is directed to transmit the records of the case to the trial Court concerned within 48 hours, so that the trial may be brought to its logical end.

Sd/-
(Ramesh Sinha)
Chief Justice

Rahul Dewangan