

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA

Cr. Revision No.296 of 2015

Reserved on: 23.04.2026

Date of Decision: 05.06.2026

Desh Raj

.... Petitioner

Versus

State of Himachal Pradesh

.... Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹

For the petitioner : Mr Prashant Pandey,
Advocate.

For the Respondent/ : Mr Lokender Kutlehria,
State Additional Advocate General.

Rakesh Kainthla, Judge

The present revision is directed against the judgment dated 01.07.2015, passed by learned Additional Sessions Judge (2), Shimla, H.P. (learned Appellate Court) vide which judgment of conviction dated

¹. *Whether reporters of the local papers may be allowed to see the judgment? Yes*

31.10.2013 and order of sentence dated 03.12.2013, passed by the learned Judicial Magistrate, First Class, Court No. V, Shimla, (learned Trial Court) were upheld. (*The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.*)

2. Briefly stated, the facts giving rise to the present revision are that the police presented a challan against the accused before the learned Trial Court for the commission of offences punishable under Sections 408, 468, 471, and 381 of the Indian Penal Code (IPC). It was asserted that the accused (Desh Raj) was working as an Accountant in Sai Automobiles near Sanjauli, District Shimla, H.P. He was handling the accounts of the firm and was feeding the data into the computer. The accused stole cheque numbers 451421, 451422, 451423 and 451424 on 07.04.2004. He forged the signatures of Hari Om (PW-2) on cheques and withdrew ₹1,10,000/- from Punjab National Bank, Sanjauli. He tried to encash cheque number 017555 for ₹30,000/- by forging the signatures of Hari Om (PW-2), but the bank officials

became suspicious, verified the signatures and stopped the payment. The bank intimated the forgery to Sai Automobile. The accused admitted that he had forged the signatures and undertook to return the amount in the instalments of ₹ 2000/- per month. He executed an affidavit (Ext.PW-14/C) to this effect. The firm decided not to terminate the services of the accused. However, the accused deleted the data from the computer and left the job on 10.07.2004 without informing anyone. A complaint was filed with the police against the accused. The police registered the F.I.R. (Ext.PW-12/D) and investigated the matter. S.I. Satto Kumar (PW-12) recorded the statements of witnesses as per their version. Dina Nath (PW-14) seized the cheque No.017555 for ₹30,000 and the affidavit (Ext.PW-1/A). He also seized the cheques of ₹1,10,000/- vide memo (Ext.PW-3/A). He obtained the specimen signatures of the accused in the presence of a learned Judicial Magistrate, First Class, Court No.2, Shimla and sent them for comparison with the disputed signatures. He also seized an affidavit and a cash payment voucher vide memo

(Ext. PW-14/A). The papers of the cash book were seized vide memo (Ext.PW- 5/A). The result of the analysis (Ext.PW-7/A) was issued, in which it was mentioned that the specimen, admitted and disputed handwriting were of the same person. After the completion of the investigation, the challan was prepared and presented before the Court.

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, he was charged with the commission of offences punishable under Sections 381, 468 and 471 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined 15 witnesses to prove its case. Sachin Dogar (PW-1) is the owner of Sai Automobile. Hari Om (PW-2) was the authorised signatory, whose signature was forged. Padam Singh (PW-3) and Ranjeet Singh (PW-4) did not support the prosecution's case. Shyam Singh (PW-5), Roshan Lal (PW-6) and Constable Suresh Kumar (PW-10) witnessed

the recoveries. Visheshwar Sharma (PW-7) is the handwriting expert who had examined the admitted, disputed and specimen signatures. Kusum Lata Gupta (PW-8) detected the forgery in the bank. Rakesh Kumar (PW-9) was working as a peon who used to get the cheque encashed. LC Sumita No. 1216 (PW-11) took the signatures to FSL Junga. SI Satto Kumar (PW-12) and Dina Nath (PW-14) investigated the matter. HC Tek Ram No. 170 (PW-13) was working as MHC with whom the case property was deposited. Narayan Dutt (PW-15) was the General Manager of Sai Automobile.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (Cr.P.C.), admitted that he was posted as an Accountant in Sai Automobile. He asserted that he did not have the custody of the cheques, and the affidavit was wrongly prepared. He stated that he was asked to copy the handwriting, and a false case was made against him. He did not produce any evidence in his defence.

6. The learned Trial Court held that the accused was working as an Accountant. He had the cheque books and the account statements. The accused was under an obligation to establish that the cheques were lost and misused without his knowledge. Rakesh Kumar stated that he had carried the cheque to the bank, where the forgery was detected. He categorically stated that the accused had handed over the cheques to him. Hari Om specifically stated that he had not signed the cheques. The handwriting expert compared the handwriting and found that the signatures were forged. The prosecution's case was proved beyond a reasonable doubt. Hence, the learned Trial Court convicted and sentenced the accused as under: -

Section(s)**Sentences**

381 of IPC The accused was sentenced to undergo simple imprisonment for one year, pay a fine of ₹2000/- and, in default of payment of fine, to further undergo simple imprisonment for one month.

471 of IPC The accused was sentenced to undergo simple imprisonment for

one year, pay a fine of ₹1000/-, and, in default of payment of fine, to further undergo simple imprisonment for fifteen days.

468 of IPC The accused was sentenced to undergo simple imprisonment for six months.

It was ordered that all the substantive sentences of imprisonment shall run concurrently.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused filed an appeal, which was decided by the learned Additional Sessions Judge-II, Shimla, District Shimla (learned Appellate Court). Learned Appellate Court held that the accused was in possession of the cheque in his capacity as an Accountant. He had executed an affidavit admitting that he had forged the signatures on the cheques and encashed them. Hari Om denied that he had put his signature. Kusum Lata (PW-8) detected the forgery. All these circumstances proved the guilt of the accused. Learned Trial Court had imposed an adequate sentence, and no interference was required with the judgment and order passed by the learned Trial Court.

8. Being aggrieved by the judgment and order passed by the learned Courts below, the accused has filed the present revision asserting that the statements of prosecution witnesses contradicted each other on a material aspect. The learned Courts below misinterpreted the statement of the accused recorded under Section 313 of Cr.P.C. The prosecution had failed to prove that the cheques were stolen and signatures were forged. Therefore, it was prayed that the present petition be allowed and the judgments and order passed by the learned Courts below be set aside.

9. I have heard Mr Prashant Pandey, learned counsel for the petitioner/accused, and Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State.

10. Mr Prashant Pandey, learned counsel for the petitioner/accused, submitted that the learned Courts below erred in appreciating the material on record. There was no evidence that the accused had forged the signatures of an authorised signatory. The statement of a handwriting expert is a weak type of evidence because it is an opinion, and a conviction cannot be based upon it. He prayed that the present

appeal be allowed and the judgments and order passed by the learned Courts below be set aside. He relied upon the following judgments in support of his submissions: -

- *Sait Tarajee Khimchand & others vs. Yelamarti Satyam & others: AIR 1971 SC 1865;*
- *Rahim Khan vs. Khurshid Ahmed & others: AIR 1975 SC 290; and*
- *S.Gopal Reddy vs. State of Andhra Pradesh, AIR 1996 SC 2184.*

11. Mr Lokender Kutlehria, learned Additional Advocate General for the respondent/State, submitted that the learned Courts below have concurrently found that the cheque book was in possession of the accused. The authorised signatory denied his signature on the cheque. The cheques were presented to the bank and were encashed. One cheque was handed over to Rakesh Kumar by the accused, and the signatures on it were found to be forged. The statement of the handwriting expert can be used to corroborate the statements of other prosecution witnesses. Both the learned Courts below have concurrently held the accused to be guilty, and this court should not exercise its revisional jurisdiction to re-appreciate

the evidence. Therefore, he prayed that the present petition be dismissed.

12. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

13. It was laid down by the Hon'ble Supreme Court in *Malkeet Singh Gill v. State of Chhattisgarh*, (2022) 8 SCC 204: (2022) 3 SCC (Cri) 348: 2022 SCC OnLine SC 786 that a revisional court is not an appellate court and it can only rectify the patent defect, errors of jurisdiction or the law. It was observed at page 207: -

“10. Before advertng to the merits of the contentions, at the outset, it is apt to mention that there are concurrent findings of conviction arrived at by two courts after a detailed appreciation of the material and evidence brought on record. The High Court in criminal revision against conviction is not supposed to exercise the jurisdiction like the appellate court, and the scope of interference in revision is extremely narrow. Section 397 of the Criminal Procedure Code (in short “CrPC”) vests jurisdiction to satisfy itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court. The object of the provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error that is to be determined on the merits of individual cases. It is also well settled that

while considering the same, the Revisional Court does not dwell at length upon the facts and evidence of the case to reverse those findings.

14. This position was reiterated in *State of Gujarat v. Dilipsinh Kishorsinh Rao*, (2023) 17 SCC 688: 2023 SCC OnLine SC 1294, wherein it was observed at page 695:

“14. The power and jurisdiction of the Higher Court under Section 397 CrPC, which vests the court with the power to call for and examine records of an inferior court, is for the purposes of satisfying itself as to the legality and regularities of any proceeding or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law or the perversity which has crept in such proceedings.

15. It would be apposite to refer to the judgment of this Court in *Amit Kapoor v. Ramesh Chander*, (2012) 9 SCC 460: (2012) 4 SCC (Civ) 687: (2013) 1 SCC (Cri) 986, where the scope of Section 397 has been considered and succinctly explained as under: (SCC p. 475, paras 12-13)

“12. Section 397 of the Code vests the court with the power to call for and examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error, and it may not be appropriate for the court to scrutinise the orders, which, upon the face of it, bear a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with

the provisions of law, the finding recorded is based on no evidence, material evidence is ignored, or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.

13. Another well-accepted norm is that the revisional jurisdiction of the higher court is a very limited one and cannot be exercised in a routine manner. One of the inbuilt restrictions is that it should not be against an interim or interlocutory order. The Court has to keep in mind that the exercise of revisional jurisdiction itself should not lead to injustice ex facie. Where the Court is dealing with the question as to whether the charge has been framed properly and in accordance with law in a given case, it may be reluctant to interfere in the exercise of its revisional jurisdiction unless the case substantially falls within the categories aforesaid. Even the framing of the charge is a much-advanced stage in the proceedings under CrPC.”

15. It was held in *Kishan Rao v. Shankargouda*, (2018) 8 SCC 165: (2018) 3 SCC (Cri) 544: (2018) 4 SCC (Civ) 37: 2018 SCC OnLine SC 651 that it is impermissible for the High Court to re-appreciate the evidence and come to its conclusions in the absence of any perversity. It was observed at page 169:

“12. This Court has time and again examined the scope of Sections 397/401 CrPC and the grounds for exercising the revisional jurisdiction by the High Court. In *State of Kerala v. Puttumana Illath Jathavedan Namboodiri*, (1999) 2 SCC 452: 1999 SCC (Cri) 275], while

considering the scope of the revisional jurisdiction of the High Court, this Court has laid down the following: (SCC pp. 454-55, para 5)

5. ... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings to satisfy itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting a miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court, nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise amount to a gross miscarriage of justice. On scrutinising the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation in concluding that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by reappreciating the oral evidence. ...”

13. Another judgment which has also been referred to and relied on by the High Court is the judgment of this Court in *Sanjaysinh Ramrao Chavan v. Dattatray Gulabrao Phalke*, (2015) 3 SCC 123: (2015) 2 SCC (Cri) 19]. This Court held that the High Court, in the exercise of revisional jurisdiction, shall not interfere with the order of the Magistrate unless it is perverse or wholly unreasonable or there is non-consideration of any relevant material, the order cannot be set aside merely on the ground that another view is possible. The following has been laid down in para 14: (SCC p. 135)

“14. ... Unless the order passed by the Magistrate is perverse or the view taken by the court is wholly unreasonable or there is non-consideration of any relevant material or there is palpable misreading of records, the Revisional Court is not justified in setting aside the order, merely because another view is possible. The Revisional Court is not meant to act as an appellate court. The whole purpose of the revisional jurisdiction is to preserve the power in the court to do justice in accordance with the principles of criminal jurisprudence. The revisional power of the court under Sections 397 to 401 CrPC is not to be equated with that of an appeal. Unless the finding of the court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the courts may not interfere with the decision in exercise of their revisional jurisdiction.”

16. This position was reiterated in *Bir Singh v. Mukesh Kumar*, (2019) 4 SCC 197: (2019) 2 SCC (Cri) 40: (2019) 2 SCC (Civ) 309: 2019 SCC OnLine SC 13, wherein it was observed at page 205:

“16. It is well settled that in the exercise of revisional jurisdiction under Section 482 of the Criminal Procedure Code, the High Court does not, in the absence of perversity, upset concurrent factual findings. It is not for the Revisional Court to re-analyse and re-interpret the evidence on record.

17. As held by this Court in *Southern Sales & Services v. Sauermilch Design and Handels GmbH*, (2008) 14 SCC 457, it is a well-established principle of law that the

Revisional Court will not interfere even if a wrong order is passed by a court having jurisdiction, in the absence of a jurisdictional error. The answer to the first question is, therefore, in the negative.”

17. A similar view was taken in *Sanjabij Tari v. Kishore S. Borcar*, 2025 SCC OnLine SC 2069, wherein it was observed:

“27. It is well settled that in exercise of revisional jurisdiction, the High Court does not, in the absence of perversity, upset concurrent factual findings [See: *Bir Singh* (supra)]. This Court is of the view that it is not for the Revisional Court to re-analyse and re-interpret the evidence on record. As held by this Court in *Southern Sales & Services v. Sauermilch Design and Handels GMBH*, (2008) 14 SCC 457, it is a well-established principle of law that the Revisional Court will not interfere, even if a wrong order is passed by a Court having jurisdiction, in the absence of a jurisdictional error.

28. Consequently, this Court is of the view that in the absence of perversity, it was not open to the High Court in the present case, in revisional jurisdiction, to upset the concurrent findings of the Trial Court and the Sessions Court.

18. The present revision has to be decided as per the parameters laid down by the Hon’ble Supreme Court.

19. Sachin Dogar (PW-1) stated that the accused was posted as an Accountant in Sai Automobile. He withdrew ₹1,10,000/- from the bank by forging the signatures of Hari Om. The bank called him on 19.07.2004 and informed him that a cheque of ₹30,000/- bearing No.017555 was brought to

the bank, but the signatures did not match. He talked to the authorised signatory, and he denied that he had put the signatures on the cheque. Rakesh Kumar (PW-9) had taken the cheque to the bank at the instance of the accused. He stated in his cross-examination that the accused used to retain the cheque book in the capacity of an Accountant. The authorised signatory used to put the signatures on the date of the payment. The other cheques were stolen by the accused and presented to the bank. He admitted that no F.I.R was lodged by him.

20. Hari Om (PW-2) stated that he was the authorised signatory of Sai Automobile, and the accused was an accountant. The accused had the cheque book. He used to get the signatures of the authorised signatory before issuing the cheque. The accused had withdrawn ₹1,10,000/- by forging his signature on four cheques. One cheque no. 017555 was presented before the bank, and the bank found that the signatures were different. The bank intimated Sai Automobile. The accused admitted his fault. He stated in his cross-examination that he and his sons were running the business

together. He used to make the payment to the party through cheques.

21. Rakesh (PW-9) stated that Hari Om, Sachin and accused Desh Raj used to hand over the cheque to him to withdraw the money. The accused had handed over the cheque number 017555 for withdrawing the money on 19.07.2004. He presented the cheque to the bank, and the bank officials revealed that the signatures did not match. Hari Om and Sachin came to the bank with the accused Desh Raj. The accused used to say that money should be handed over to him after encashing the cheque. He stated in his cross-examination that he used to go to the bank in his capacity as a Peon. All the cheques used to be signed by Hari Om Dogar. He could not say the dates when the cheques were handed over to him.

22. Kusum Lata Gupta (PW-8) examined the cheque and found that the signatures of Hari Om were different from the admitted signatures.

23. Narayan Dutt Thakur (Pw-15) stated that he was posted as General Manager in Sai Automobile, and the accused

was posted as an Accountant. Hari Om was the authorised signatory. The accused used to retain the cheque book. One cheque was handed over to Rakesh on 19.07.2004 for encashment, but the bank officials said that the signatures did not match. Hari Om disclosed that he had not signed any cheque. The accused admitted his fault. Four other cheques were also found forged in the bank. He stated in his cross-examination that he had served with Sai Automobile for five years. He was told by Hari Om regarding the forgery of the cheque. The peon of the firm used to take the cheque to the bank.

24. All the witnesses have consistently stated that the accused was posted as an Accountant in Sai Automobile. The accused also admitted in his statement recorded under Section 313 of Cr.P.C. that he was posted as an Accountant. He claimed that the cheque book was not kept in his custody. However, all the witnesses stated that the accused had the custody of the cheque book. Nothing was suggested to the witnesses to show that they had any motive to falsely implicate the accused, and the learned Courts had rightly accepted the statements of the witnesses.

25. Hari Om, the authorised signatory, specifically stated that the cheques did not bear his signature. His statement is duly corroborated by the statement of Dr Visheshwar Sharma (PW-7), who compared the admitted, disputed and specimen signatures. He found after the comparison that the disputed specimen and the admitted signatures were written by the same person. He denied that handwriting is not an exact science.

26. It was submitted that the statement of a handwriting expert cannot be used to record the conviction because it is a weak type of evidence. This submission cannot be accepted. It was laid down by the Hon'ble Supreme Court in *C. Kamalakkannan v. State of T.N.*, (2025) 4 SCC 487, that there is no rule of law that the testimony of a handwriting expert cannot be relied upon without corroboration. It was observed: -

13. The locus classicus on this issue is *Murari Lal v. State of M.P.* [*Murari Lal v. State of M.P.*, (1980) 1 SCC 704: 1980 SCC (Cri) 330], wherein this Court laid down the principles with regard to the extent to which reliance can be placed on the evidence of an expert witness and when corroboration of such evidence may be sought. The relevant paragraphs are extracted below: (SCC pp. 707-709, 711-12, paras 4, 6 & 11)

“4. We will first consider the argument, a stale argument often heard, particularly in criminal courts, that the opinion-evidence of a handwriting expert should not be acted upon without substantial corroboration. We shall presently point out how the argument cannot be justified on principle or precedent. We begin with the observation that the expert is no accomplice. There is no justification for condemning his opinion-evidence to the same class of evidence as that of an accomplice and insisting upon corroboration. *True, it has occasionally been said on very high authority that it would be hazardous to base a conviction solely on the opinion of a handwriting expert.* But, the hazard in accepting the opinion of any expert, handwriting expert or any other kind of expert, is not because experts, in general, are unreliable witnesses — the quality of credibility or incredibility being one which an expert shares with all other witnesses — but because all human judgment is fallible and an expert may go wrong because of some defect of observation, some error of premises or honest mistake of conclusion. The more developed and the more perfect a science, the less the chance of an incorrect opinion and the converse if the science is less developed and imperfect. The science of the identification of fingerprints has attained near perfection, and the risk of an incorrect opinion is practically non-existent. *On the other hand, the science of handwriting identification is not nearly so perfect, and the risk is, therefore, higher.* But that is a far cry from doubting the opinion of a handwriting expert as an invariable rule and insisting upon substantial corroboration in every case, however the opinion may be backed by the soundest of reasons. It is hardly fair to an expert to view his opinion with an initial suspicion and to treat him as an inferior

sort of witness. *His opinion has to be tested by the acceptability of the reasons given by him. An expert deposes and not decides. ...*

6. *Expert testimony is made relevant by Section 45 of the Evidence Act, and where the court has to form an opinion upon a point as to identity of handwriting, the opinion of a person “specially skilled” in questions as to identity of handwriting is expressly made a relevant fact. ... So, corroboration may not invariably be insisted upon before acting on the opinion of a handwriting expert, and there need be no initial suspicion. But, on the facts of a particular case, a court may require corroboration of a varying degree. There can be no hard-and-fast rule, but nothing will justify the rejection of the opinion of an expert supported by unchallenged reasons on the sole ground that it is not corroborated. The approach of a court while dealing with the opinion of a handwriting expert should be to proceed cautiously, probe the reasons for the opinion, consider all other relevant evidence and finally decide to accept or reject it.*

11. *We are firmly of the opinion that there is no rule of law, nor any rule of prudence which has crystallised into a rule of law, that opinion, evidence of a handwriting expert must never be acted upon, unless substantially corroborated. But, having due regard to the imperfect nature of the science of identification of handwriting, the approach, as we indicated earlier, should be one of caution. Reasons for the opinion must be carefully probed and examined. All other relevant evidence must be considered. In appropriate cases, corroboration may be sought. In cases where the reasons for the opinion are convincing, and there is no reliable*

evidence throwing a doubt, the uncorroborated testimony of a handwriting expert may be accepted. There cannot be any inflexible rule on a matter which, in the ultimate analysis, is no more than a question of testimonial weight. We have said so much because this is an argument frequently met with in subordinate courts, and sentences torn out of context from the judgments of this Court are often flaunted.”

(emphasis supplied)

27. It was held by the Hon’ble Supreme Court in *Padum Kumar v. State of U.P.*, (2020) 3 SCC 35, that the report of the handwriting expert can be relied upon if corroborated by other evidence. It was observed: –

14. The learned counsel for the appellant has submitted that, without independent and reliable corroboration, the opinion of the handwriting experts cannot be relied upon to base the conviction. In support of his contention, the learned counsel for the appellant has placed reliance upon *S. Gopal Reddy v. State of A.P.* [*S. Gopal Reddy v. State of A.P.*, (1996) 4 SCC 596: 1996 SCC (Cri) 792], wherein the Supreme Court held as under: (SCC pp. 614-15, para 28)

“28. Thus, the evidence of PW 3 is not definite and cannot be said to be of a clinching nature to connect the appellant with the disputed letters. The evidence of an expert is a rather weak type of evidence, and the courts do not generally consider it as offering “conclusive” proof and therefore safe to rely upon the same without seeking independent and reliable corroboration. In *Magan Bihari Lal v. State of Punjab* [*Magan Bihari Lal v. State of Punjab*, (1977) 2 SCC 210: 1977 SCC (Cri) 313], while dealing with the evidence of

a handwriting expert, this Court opined: (SCC pp. 213-14, para 7)

‘7. ... we think it would be extremely hazardous to condemn the appellant merely on the strength of opinion evidence of a handwriting expert. It is now well settled that expert opinion must always be received with great caution, and perhaps none so with more caution than the opinion of a handwriting expert. There is a profusion of precedential authority that holds that it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon, and it has almost become a rule of law. It was held by this Court in *Ram Chandra v. State of U.P.* [*Ram Chandra v. State of U.P.*, AIR 1957 SC 381: 1957 Cri LJ 559] that it is unsafe to treat expert handwriting opinion as a sufficient basis for conviction, but it may be relied upon when supported by other items of internal and external evidence. This Court again pointed out in *Ishwari Prasad Misra v. Mohd. Isa* [*Ishwari Prasad Misra v. Mohd. Isa*, AIR 1963 SC 1728] that expert evidence of handwriting can never be conclusive because it is, after all, opinion evidence, and this view was reiterated in *Shashi Kumar Banerjee v. Subodh Kumar Banerjee* [*Shashi Kumar Banerjee v. Subodh Kumar Banerjee*, AIR 1964 SC 529] where it was pointed out by this Court that an expert's evidence as to handwriting being opinion evidence can rarely, if ever, take the place of substantive evidence and before acting on such evidence, it would be desirable to consider whether it is corroborated either by clear direct evidence or by circumstantial evidence. This Court had again occasion to consider the evidentiary value of expert

opinion in regard to handwriting in *Fakhruddin v. State of M.P.* [*Fakhruddin v. State of M.P.*, AIR 1967 SC 1326: 1967 Cri LJ 1197] and it uttered a note of caution pointing out that it would be risky to found a conviction solely on the evidence of a handwriting expert and before acting upon such evidence, the court must always try to see whether it is corroborated by other evidence, direct or circumstantial.’”

15. Of course, it is not safe to base the conviction solely on the evidence of the handwriting expert. As held by the Supreme Court in *Magan Bihari Lal v. State of Punjab* [*Magan Bihari Lal v. State of Punjab*, (1977) 2 SCC 210: 1977 SCC (Cri) 313] that: (SCC p. 213, para 7)

“7. ... expert opinion must always be received with great caution ... it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon, and it has almost become a rule of law.”

16. It is fairly well settled that before acting upon the opinion of the handwriting expert, prudence requires that the court must see that such evidence is corroborated by other evidence, either direct or circumstantial evidence. In *Murari Lal v. State of M.P.* [*Murari Lal v. State of M.P.*, (1980) 1 SCC 704: 1980 SCC (Cri) 330], the Supreme Court held as under: (SCC pp. 708-09, paras 4 and 6)

“4. ... True, it has occasionally been said on very high authority that it would be hazardous to base a conviction solely on the opinion of a handwriting expert. But, the hazard in accepting the opinion of any expert, handwriting expert or any other kind of expert, is not because experts, in general, are unreliable witnesses — the quality of credibility or incredibility being one which an expert shares with all other witnesses — but

because all human judgment is fallible and an expert may go wrong because of some defect of observation, some error of premises or honest mistake of conclusion. The more developed and the more perfect a science, the less the chance of an incorrect opinion and the converse if the science is less developed and imperfect. The science of the identification of fingerprints has attained near perfection, and the risk of an incorrect opinion is practically non-existent. On the other hand, the science of handwriting identification is not nearly so perfect, and the risk is, therefore, higher. But that is a far cry from doubting the opinion of a handwriting expert as an invariable rule and insisting upon substantial corroboration in every case, howsoever the opinion may be backed by the soundest of reasons. It is hardly fair to an expert to view his opinion with an initial suspicion and to treat him as an inferior sort of witness. His opinion has to be tested by the acceptability of the reasons given by him. An expert deposes and not decides. His duty "is to furnish the Judge with the necessary scientific criteria for testing the accuracy of his conclusion, so as to enable the Judge to form his own independent judgment by the application of these criteria to the facts proved in evidence [Vide Lord President Cooper in *Davis v. Edinburgh Magistrate*, 1953 SC 34 quoted by Professor Cross in his evidence].

5. ***

6. Expert testimony is made relevant by Section 45 of the Evidence Act, and where the Court has to form an opinion upon a point as to identity of handwriting, the opinion of a person "specially skilled" in questions as to identity of handwriting is expressly made a relevant fact. ... So, corroboration may not invariably be insisted

upon before acting on the opinion of a handwriting expert, and there need be no initial suspicion. But, on the facts of a particular case, a court may require corroboration of a varying degree. There can be no hard-and-fast rule, but nothing will justify the rejection of the opinion of an expert supported by unchallenged reasons on the sole ground that it is not corroborated. The approach of a court while dealing with the opinion of a handwriting expert should be to proceed cautiously, probe the reasons for the opinion, consider all other relevant evidence and finally decide to accept or reject it.”

28. A similar view was taken in *Chennadi Jalapathi Reddy v. Baddam Pratapa Reddy*, (2019) 14 SCC 220, wherein it was observed: –

10. By now, it is well settled that the court must be cautious while evaluating expert evidence, which is a weak type of evidence and not substantive in nature. It is also settled that it may not be safe to solely rely upon such evidence, and the court may seek independent and reliable corroboration in the facts of a given case. Generally, mere expert evidence as to a fact is not regarded as conclusive proof of it. In this respect, reference may be made to a long line of precedents that includes *Ram Chandra v. State of U.P.* [*Ram Chandra v. State of U.P.*, AIR 1957 SC 381: 1957 Cri LJ 559], *Shashi Kumar Banerjee v. Subodh Kumar Banerjee* [*Shashi Kumar Banerjee v. Subodh Kumar Banerjee*, AIR 1964 SC 529], *Magan Bihari Lal v. State of Punjab* [*Magan Bihari Lal v. State of Punjab*, (1977) 2 SCC 210: 1977 SCC (Cri) 313] and *S. Gopal Reddy v. State of A.P.* [*S. Gopal Reddy v. State of A.P.*, (1996) 4 SCC 596: 1996 SCC (Cri) 792]

11. We may particularly refer to the decision of the Constitution Bench of this Court in *Shashi Kumar*

Banerjee [Shashi Kumar Banerjee v. Subodh Kumar Banerjee, AIR 1964 SC 529], where it was observed that the evidence of a handwriting expert can rarely be given precedence over substantive evidence. In the said case, the court chose to disregard the testimony of the handwriting expert as to the disputed signature of the testator of a will, finding such evidence to be inconclusive. The court instead relied on the clear testimony of the two attesting witnesses as well as the circumstances surrounding the execution of the will.

12. On the other hand, in *Murari Lal v. State of M.P.* [*Murari Lal v. State of M.P.*, (1980) 1 SCC 704: 1980 SCC (Cri) 330], this Court emphasised that reliance on expert testimony cannot be precluded merely because it is not corroborated by independent evidence, though the Court must still approach such evidence with caution and determine its creditworthiness after considering all other relevant evidence. After examining the decisions referred to supra, the Court was of the opinion that these decisions merely laid down a rule of caution, and there is no legal rule that mandates corroboration of the opinion evidence of a handwriting expert. At the same time, the Court noted that Section 46 of the Evidence Act, 1872 (hereinafter “the Evidence Act”) expressly makes opinion evidence open to challenge on facts. In *Alamgir v. State (NCT of Delhi)* [*Alamgir v. State (NCT of Delhi)*, (2003) 1 SCC 21: 2003 SCC (Cri) 165], without referring to Section 46 of the Evidence Act, this Court reiterated the observations in *Murari Lal* [*Murari Lal v. State of M.P.*, (1980) 1 SCC 704: 1980 SCC (Cri) 330] and stressed that the court must exercise due care and caution while determining the creditworthiness of expert evidence.

13. In our considered opinion, the decisions in *Murari Lal* [*Murari Lal v. State of M.P.*, (1980) 1 SCC 704: 1980 SCC (Cri) 330] and *Alamgir* [*Alamgir v. State (NCT of Delhi)*, (2003) 1 SCC 21: 2003 SCC (Cri) 165] strengthen the proposition that it is the duty of the court to

approach opinion evidence cautiously while determining its reliability and that the court may seek independent corroboration of such evidence as a general rule of prudence. Clearly, these observations in *Murari Lal* [*Murari Lal v. State of M.P.*, (1980) 1 SCC 704: 1980 SCC (Cri) 330] and *Alamgir* [*Alamgir v. State (NCT of Delhi)*, (2003) 1 SCC 21: 2003 SCC (Cri) 165] do not go against the proposition stated in *Shashi Kumar Banerjee* [*Shashi Kumar Banerjee v. Subodh Kumar Banerjee*, AIR 1964 SC 529] that the evidence of a handwriting expert should rarely be given precedence over substantive evidence.

29. Therefore, there is no prohibition in acting upon the statement of a handwriting expert and the report submitted by him, if corroborated by the other evidence on record. Since the judgments noted above deal with the latest legal position, it is not necessary to refer to the judgments of *Rahim Khan (supra)* and *S. Gopal Reddy (supra)* wherein a similar position was laid down. *Sait Tara (supra)* holds that mere marking of a document does not prove the document, which is an undisputed position, but does not apply to the present case.

30. In the present case, the statement of Hari Om (PW-2), the authorised signatory, proves that the signatures on the cheque were not put by him. The statement of Kusum Lata Gupta (PW-8) proved that the signatures on the cheque were

different. These statements are corroborated by the report of the Handwriting expert, and the learned Courts below had rightly relied upon their testimonies and the report of the handwriting expert.

31. The accused executed an affidavit (Ext.PW-14/C) in which he had specifically stated that he had forged the cheques and withdrawn ₹1,10,000/-. He promised to repay the amount in the monthly instalment of ₹2000/-, provided the matter was not reported to the police. The accused stated in his statement recorded under Section 313 of Cr.P.C. that a wrong affidavit was prepared. He has not explained the term 'wrong affidavit', but his statement suggests that he had executed the affidavit. This affidavit also provides corroboration to the statements of prosecution witnesses and the report of the handwriting expert that the accused had forged the signatures on the cheque and withdrew the money of the firm.

32. It was submitted that, as per the prosecution, the accused was in custody of the cheques and he could not have been held liable for the commission of the theft. This

submission is only stated to be rejected. *Illustration (d) of Section 378 of IPC reads that 'A', being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate without Z's consent. 'A' has committed a theft.* Therefore, the servant can commit the theft of the article entrusted to him by his master because, in these cases, the possession is always treated as that of the master and not that of the servant. Further, Section 381 of the IPC punishes a person who is a clerk or a servant and commits the theft of the property in the possession of the master or the employer. Thus, Section 381 of IPC was rightly invoked by the prosecution.

33. In the present case, the accused had forged the signatures and withdrew the amount. He had presented the forged signatures as genuine and thereby induced the bank to deliver the money to him. Thus, he was rightly held guilty of the commission of offences punishable under Sections 468 and 471 of the IPC.

34. Learned trial Court had imposed the maximum sentence of one year, which cannot be said to be excessive considering that the accused, being a servant, was holding a

position of trust with respect to his master and a deterrent view was required to be taken to prevent the employees from committing the theft of the employer's articles. Therefore, no interference is required with the sentence imposed by learned Trial Court.

35. No other point was urged.

36. In view of the above, the present revision fails, and it is dismissed.

37. A copy of the judgment, along with records of the learned Courts below, be sent back forthwith.

(Rakesh Kainthla)
Judge

05th June, 2026.
(ravinder)