

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 1973/2025

Viresh Thakur, Son Of Late Sh. Rewatiraman Thakur, Aged About 47 Years, Resident Of Old Dharamkante Ki Gali Near House Of Anil Sharma Gautam Colony Baran, District Baran (Raj).

----Petitioner

Versus

Gopal Lal Sharma, Son Of Shri Girraj Kumar Gaur, Aged About 50 Years, Resident Of Lane Opposite Anchal Sari Showroom Kunal Collection Indra Market Baran, District Baran (Raj). (Rajasthan).

----Respondent/Complainant

For Petitioner(s)	:	Mr. Anubodh Subodh Jain
For Respondent(s)	:	Mr. Manvendra Singh Shekhawat, PP with Mr. Subham Sain, AAAG

HON'BLE MR. JUSTICE SAMEER JAIN

Judgment

08/04/2025

1. Present petition is filed assailing the order dated 17.03.2025 passed by upper District and Sessions Judge in Criminal Revision Petition No.10/2024 which was filed in pursuance to impugned order dated 13.08.2024 passed by learned Additional Judicial Magistrate, Baran in Criminal Complaint No.61/2021.
2. It is submitted by learned counsel for the petitioner that vide the impugned order, application preferred by the petitioner-accused seeking investigation of signature in cheque by handwriting expert has been dismissed.
3. Further, learned counsel for the petitioner has submitted that the said dismissal of the said application is arbitrary for following reasons:-

3.1 That the application is decided in perfunctory manner without due application of mind.

3.2 That the cheque was dishonored on account of signature being mismatched and there was inconsistency, contradiction and gross contrast in the testimony of respondent/complainant.

3.3 That to make out alleged offence under Section 138 of the NI Act, the examination of handwriting expert was certain and the question of handwriting was mandatory.

4. Learned counsel has further relied upon judgment of Apex Court reported in **2007 (1) Crimes 106 (SC)** titled as **Kalyani Baskar Vs. MS Sampooranam** and **Criminal Appeal No. 423/2022 arising out of SLP (Crl.) No. 9722/2016** titled as **Manorama Naik Vs. The State of Odisha & Anr.** and indulgence is sought for quashing of the impugned order.

5. At the outset, it is noted and analyzed from the material available on record that qua the impugned orders as referred above, the Revision order dated 17.03.2025 was dismissed on the ground of non-maintainability of revision petition against the interlocutory order as the petitioner has not challenged/pressed upon the same.

6. Having heard the contentions leveled by the learned counsel, and taking note of the judgments cited at the Bar, this Court is of the following view:

6.1 That the dispute in hand pertains to a sum of Rs.1,80,000 (Rupees One Lac Eighty Thousand Only).

6.2 That the evidence of respondent- Shri Gopal Lal Sharma is noted to be over.

6.3 That the petitioners' statements were also noted *vis-a-vis* the same the Court had observed in the impugned order that except the date all the other details were duly filled, and the date was also put up after asking from the petitioner/accused by the respondents.

6.4 Nevertheless, the judgments relied upon by the petitioner were also considered by the learned Trial Court whilst passing the impugned order. Qua the same the learned Trial Court had noted the following:

“न्यायालय द्वारा दोनों पक्षों को सुना गया एवं पत्रावली का अवलोकन किया गया। पत्रावली के अवलोकन से यह प्रकट होता है कि परिवादी गोपाल शर्मा की साक्ष्य पूर्ण हो चुकी है एवं अभियुक्त के बयान मुलजिम भी लेखबद्ध किये जा चुके हैं। दौराने साक्ष्य परिवादी ने अभियुक्त को 1,80,000 उधारी देना स्वीकार किया है तथा यह भी अभिकथित किया है कि परिवादी ने अभियुक्त से भरा हुआ चैक प्राप्त किया था, जिस पर मात्र तारीख अंकित नहीं थी, जो परिवादी ने अभियुक्त से पूछकर डाली थी। प्रार्थी/अभियुक्त का यह कथन है कि चूंकि विवादित चैक Drawer signature differ की टिप्पणी के साथ अनादरित हुआ है, इसलिये न्यायालय विवादित चैक पर अभियुक्त के हस्ताक्षर की जांच हेतु हस्तलेख विशेषज्ञ को यह चैक भिजवाये। इस संबंध में माननीय उच्चतम न्यायालय द्वारा प्रतिपादित न्यायिक दृष्टांत “मनोरमा नायक बनाम उडीस राज्य Criminal Appeal No. 423/2022” महत्वपूर्ण है, जिसके अंतर्गत माननीय सर्वोच्च न्यायालय ने यह प्रतिपादित किया है कि हस्तलेख विशेषज्ञ (Handwriting expert) द्वारा जाँच ही एक मात्र किसी व्यक्ति का हस्ताक्षर व हस्तलेख साबित करने का माध्यम नहीं है।”

7. In the facts and circumstances, taking note of over-all facts and circumstances of the matter in hand and the fact that qua the matter in hand the ratio of **Kalyani Baskar (Supra)** shall not be applicable as the same is on distinguishable facts; that the impugned order is *sans* any illegality or arbitrariness, nevertheless, is a speaking order that was passed whilst considering the material facts and circumstances, this Court is not inclined to interfere in the instant matter.

8. Accordingly, the present petition is dismissed. Pending applications, if any, shall stand disposed of.

(SAMEER JAIN),J

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