





cheque compared with the specimen handwriting of the petitioner. The same was dismissed vide impugned order dated 20.02.2025.

3. Learned counsel for the petitioner *inter alia* contends that the petitioner had not issued the disputed cheque to the respondent towards any legally recoverable debt. In fact, the parties were in a business relationship and the respondent had stolen some blank signed cheques from the office of their partnership firm. He further submits that only the signatures on the disputed cheque belong to the petitioner but the remaining contents have not been filled by him. The learned trial Court has fallen into grave error in dismissing the application merely on the ground that the petitioner had not disputed his signatures on the said cheque.

4. In order to save time of the Court and avoid litigation expenses to be incurred on the part of the respondent, this Court finds it appropriate to decide the present petition without issuing notice to the respondent.

5. Having heard learned counsel for petitioner and after perusing the record with his able assistance, it transpires that the parties had a pre-existing relationship as the respondent was the Insurance Adviser of the petitioner. Additionally, they were also business partners. It is the case of the petitioner that the respondent had stolen some blank signed cheques from the office of their partnership firm and misused the same to falsely implicate the petitioner in complaint (supra). Moreover, the petitioner has only admitted his signatures on the disputed cheque and not the handwriting on the remaining contents.

6. In this context, this Court has no hesitation in holding that denial of an opportunity to have the handwriting compared would prejudice the



petitioner and hamper his ability to present best available evidence and defend himself, which is in direct violation of the right to free and fair trial enshrined under Article 21 of the Constitution of India as well as the principles of natural justice. While it is true that the results of the proposed analysis in itself might have some probative value but it is totality of the circumstances that would cause the learned trial Court to decide if the same can shake the credibility of the prosecution case. As such, no prejudice will be caused to the respondent if the handwriting on the cheque (supra) is analysed and compared with that of the petitioner. Reliance in this regard can be placed on the judgment rendered by a Co-ordinate bench of this Court in *Rajesh Rana vs. Parmod Kumar 2022(4) R.C.R.(Criminal) 381*, wherein, speaking through Justice Jasjit Singh Bedi, the following was held:

*“13. A perusal of the judgments in **T. Nagappa's case etc. (supra)**, would clearly establish that when a contention is raised that the complainant has misused the cheque by filling up the body of the same, even in a case, where a presumption can be raised under section 118(a) or 139 of the Negotiable Instruments Act, **an opportunity must be granted to the accused for adducing evidence in rebuttal thereof. As the law places burden on the accused, he must be given an opportunity to discharge it.***

*The complainant will invariably not disclose that the body of the cheque has been filled up by him or at his instance even where the signatures on the cheque has been accepted by the accused. Without doubt, the holder of the cheque has the authority to fill the same and the cheque would be a valid instrument but to start with, **the first step available with an accused to rebut the presumption that the cheque had been issued for the discharge of a legally enforceable debt is by examining a handwriting expert to testify that the signatory and the author of the body of the cheque are different persons.** Even if the difference in writing is established, the accused will still have to rebut the presumption under the Act, that the cheque is a valid tender and that he had made the payment to the complainant but despite that fact, the complainant filled up the cheque and presented the same leading to it being dishonoured. On the other hand, **if the permission to examine the handwriting expert is not permitted on the ground that the holder has the authority to fill the body of the cheque, then the accused cannot even begin to establish his defence that a cheque issued as security has been filled up by someone other than him and misused. Thus, it would***



**be unfair to shut out the defence of the accused at the threshold by not allowing the examination of the cheque in question by a handwriting expert.**” (emphasis added)

7. Accordingly, in view of the discussion above, the present petition is allowed and the impugned order dated 20.02.2025 (Annexure P-10) is hereby set aside, subject to payment of Rs.5,000/-, payable to the respondent as cost for the inconvenience caused to him. Further, the learned Judicial Magistrate Ist Class, Rohtak, is directed to grant one effective opportunity to the petitioner to get the handwriting examined through an expert.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**24.03.2025**

*Neha*

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No