



2025:UHC:1814

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

C528 No.45 of 2025

Ishwar Singh

...Petitioner

Vs.

State of Uttarakhand & Anr.

....Respondents

Present:-

Mr. Bhuwan Bhatt, Advocate for the petitioner

Mr. Deepak Bisht, Deputy A.G. for the State

Date of Judgment: - 17.03.2025

Hon'ble Vivek Bharti Sharma, J.

By means of present petition u/s 528 of
Bhartiya Nagrik Suraksha Sanhita (*in short, B.N.S.S.*)
petitioner seeks to quash the order dated 19.01.2024
passed by Civil Judge (J.D.), Vikasnagar, Dehradun in
Complaint Case No.20 of 2017 as well as the
judgment/order dated 21.10.2024 passed by Additional
Sessions Judge, Vikasnagar, Dehradun in Criminal
Revision No.10 of 2024.

2. By the impugned orders, the application filed
by the petitioner/accused, for calling a Handwriting
Expert to examine the cheque in question, has been
rejected.

3. Learned counsel for the petitioner/accused
would submit that as per the version of the respondent



no.2/complainant the cheque in question was issued by the petitioner/accused to him on 05.10.2016 whereas the cheque book was issued to the petitioner/accused in the year 2011 and the cheque in question is the first cheque of the said cheque book whereas the second cheque was issued in the year 2012, which creates serious doubt regarding the issuance of cheque in question.

4. Heard submission of learned counsel for the petitioner/accused and gone through the impugned judgment/orders as well as the application filed by the petitioner/accused.

5. The Trial Court has rejected the application of the petitioner/accused on the ground that the petitioner/accused did not depose anything in his statement recorded either u/s 251, 313 of Cr.P.C or in his cross-examination regarding the handwriting of the description written on the cheque in question or that some interpolation was done in the same, nor he has mentioned in the application as to why he wants to call a handwriting expert.

6. Learned Revisional Court also found favour with the reasoning recorded by the trial court and it was specifically observed by the Revisional Court that the



burden to prove the correction/interpolation in the cheque in question, if any, was upon the petitioner/accused but the petitioner/accused failed to discharge this burden.

7. After going through the impugned orders, which appear to be perfectly justified, this Court also perused the application filed by the petitioner/accused. In the application, the petitioner/accused has requested to call a Handwriting Expert to examine the cheque in question but the application is silent regarding the purpose for calling the Expert. It is nowhere stated that why the cheque in question is to be examined by the Handwriting Expert.

8. In the considered opinion of this Court, the application was filed by the petitioner/accused in a very cursory and haphazard manner without disclosing any purpose or motive of filing the same, which is nothing but blatant abuse of process of Court. The courts below have rightly observed that the petitioner/accused did not raise this issue of any correction/interpolation in the cheque in question in his statement recorded either u/s 251, 313 of Cr.P.C or in his cross-examination. That being the position, this Court has no hesitation to say



that the present petition is a frivolous petition thereby making an attempt to delay the trial.

8. Hon'ble Supreme Court *in re Pandurang Vithal Kevne vs. Bharat Sanchar Nigam Limited and Another (2024) SCC Online 4108* has observed as under:-

“22. Considering that precious time of this Court and the High Court was wasted by the petitioner, in our opinion the petitioner deserves to be burdened with heavy cost, to give clear message to the unscrupulous litigants like the petitioner for not daring to play with the Judicial System. Such type of litigants are not only polluting the stream of justice but putting hurdles in its dispensation to others. The precious judicial time which the petitioner has wasted, could very well be used for taking up the cases of other litigants who are waiting for justice. In fact these types of litigants are choking the system of the court, which is resulting in delays in decision of other cases. It is also the duty of the Courts at different levels to curb such type of litigation so that more time is available for dealing with genuine litigation.

23. In the light of facts and circumstances as aforesaid, we are inclined to impose a cost of Rs.1,00,000/- (Rupees One Lakh) against the petitioner to be deposited within the Maharashtra State Legal Services Authority within four weeks. On failure, recovery be effected from the petitioner as arrears of land revenue.”



9. In **K.C. Tharakan Vs State Bank of India & Ors.** [Writ Petition (Civil) Diary No(s). 27458/2022 decided on 01.05.2023], Hon'ble Supreme Court held the following:

“No legal system can have a scenario where a person keeps on raking up the issue again and again once it is resolved at highest level. This is complete wastage of judicial time. We, thus, dismiss this petition with costs, though we limit the amount of costs considering the petitioner is a dismissed person. The writ petition is dismissed with costs of Rs.10,000/- to be deposited with the Supreme Court Advocates-on-Record Welfare Fund to be utilized for the SCBA library.”

10. In **Subrata Roy Sahara vs. Union of India (2014) 8 SCC 470**, Hon'ble Supreme Court has held as under:-

“191. The Indian judicial system is grossly afflicted, with frivolous litigation. Ways and means need to be evolved, to deter litigants from their compulsive obsession, towards senseless and ill-considered claims. One needs to keep in mind, that in the process of litigation, there is an innocent sufferer on the other side, of every irresponsible and senseless claim. He suffers long drawn anxious periods of nervousness and restlessness, whilst the litigation is pending, without any fault on his part. He pays for the litigation, from out of his savings (or out of his borrowings), worrying that the other side may trick him into defeat, for no fault of his. He spends



invaluable time briefing counsel and preparing them for his claim. Time which he should have spent at work, or with his family, is lost, for no fault of his. Should a litigant not be compensated for, what he has lost, for no fault? The suggestion to the legislature is, that a litigant who has succeeded, must be compensated by the one, who has lost. The suggestion to the legislature is to formulate a mechanism, that anyone who initiates and continues a litigation senselessly, pays for the same. It is suggested that the legislature should consider the introduction of a “Code of Compulsory Costs”.

11. In view of the reasons recorded above, I am of the considered view that petition should be dismissed with exemplary cost. Accordingly, petition is dismissed *in limine* with exemplary costs of ₹ 20,000/-, which shall be paid by the petitioner/accused to the complainant/respondent no.2 before the Trial Court on the next date of hearing.

12. Petitioner/accused is directed to appear before the Trial Court on 27.03.2025 at 10:30 AM.

13. Registry is directed to circulate copy of this judgment in all the courts of the District Judiciary *via* e-mail.

(Vivek Bharti Sharma, J.)

17.03.2025

Rajni



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