



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 30th October, 2025
Pronounced on: 05th January, 2026*

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W.P. (CRL) 317/2023, CRL.M.A. 2928/2023

RAVINDER SINGH GANDOAK

S/o Mohinder Singh
R/o M-77, Greater Kailash-1,
New Delhi-110048

.....Petitioner

Through: Ms. Rebecca M John, Sr. Advocate with Mr. Vinayak Bhandari, Ms. Jaisal Singh and Mr. Pravir, Advocates.

versus

1. STATE (GOVT. OF NCT OF DELHI)

2. HARKIRAT SINGH SODHI

S/o Sh. M.S. Sodhi
R/o 210-A, Golf Links,
New Delhi-110003.

.....Respondents

Through: Mr. Sanjeev Bhandari, ASC with Mr. Arjit Sharma and Ms. Sakshi Jha, Advocates for State with SI Kamal, P.S.: Tughlak Road. Mr. Tanvir Ahmed Mir, Sr. Advocate with Mr. Rajat Asija and Ms. Mansi Singh, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.



1. A Petition under Article 226/227 Constitution of India read with Section 482 Cr.P.C has been filed on behalf of the Petitioner Ravinder Singh Gandoak to challenge the Order dated 19.01.2023 whereby the learned M.M has allowed the Application under Section 311 Cr.P.C. of the Respondent No.2 to take the *handwriting samples of Ravinder Gandoak, Deepali Gandoak and Praveet Gandoak*.

2. ***Briefly stated***, a Complaint against the Respondent No.2, son of Late S. Surinder Kaur Sodhi was filed in regard to his illegal acts with respect to the premises bearing No.210A, Golf Links, New Delhi on which FIR No.0149/2014 was registered. The Chargesheet was filed after due investigations.

3. During the investigations, an Application was filed by the I.O under **Section 311A Cr.P.C** seeking directions to the Accused persons namely Amita Gandoak, Ravinder Singh Gandoak, Praveet Gandoak and Deepali Gandoak all residents of M-77, Greater Kailash-I, New Delhi, to provide their specimen signatures and handwriting samples, for the purpose of investigation.

4. The Application was contested by Amita Gandoak, Ravinder Gandoak, Deepali Gandoak and Praveet Gandoak who filed their detailed reply.

5. The learned M.M. after due consideration, allowed the Application and directed that in order to ensure fair investigations, specimen signatures and handwriting be provided by Ravinder Gandoak, Deepali Gandoak and Praveet Gandoak, for which they shall appear in the Court on 03.02.2023. No handwriting/signatures of *Amit Gandoak* were directed to be taken since



it had already been obtained for which opinion had also been obtained from FSL.

6. Aggrieved by the said Order of learned M.M dated 19.01.2023, the present Petition has been filed.

7. The *grounds of challenge* of the impugned Order are that the Petitioner was never arrested in the present case and in fact, the Chargesheet has been filed by putting him in Column No.12, on account of insufficient evidence.

8. The Petitioner's wife had moved an Application before the concerned Magistrate seeking monitoring of investigations as the I.O was doing unfair investigations and was causing harassment to the Petitioner and his family members.

9. The Investigating Officer, Nikhil Raman, has been suspended by the Police on corruption charges, which corroborate the Petitioner's fears that the entire investigation has been conducted in an unfair and *mala fide* manner.

10. It has not been appreciated by the learned M.M that the Application for seeking specimen handwriting and signatures, was to counter the monitoring Application filed by Amita Gandoak. The Investigation is the sole prerogative of the Investigating Agency and the Courts cannot direct the Investigating Officer, to investigate the case in a particular manner.

11. Further, despite the direction of this Court that the Investigating Officer must investigate uninfluenced by the observations of the learned Metropolitan Magistrate's Order directing further investigations, the Trial Court recorded the submissions of the Complainant with respect to the directions passed in further Investigation Order. Thorough investigations



had been conducted for almost five years and thereafter, the Charge-Sheet was filed in the Court against the wife of the Petitioner.

12. However, on the Application of the Respondent No. 2/Complainant, the Court deferred the process and ordered further investigations against her family members and new accused, who was never part of original Complaint or FIR. There were no specific allegations against Mr. Devottam Sengupta and yet, the learned Trial Court has ordered the investigations against him. It has not been appreciated that the alleged transaction was spread over such a long period of time and that the amount allegedly withdrawn, is absurdly odd.

13. It is submitted that even the Complainant belongs to a highly affluent family and is involved in a dispute over a property at Golf Links worth many crores. Without attributing any allegation or overt act against the family members of the Petitioner, they have also been roped in the FIR by way of omnibus allegation that they were in conspiracy with Amita Gandoak.

14. The I.O's Application was silent on the grounds on which the handwriting specimen of the Petitioner and his children was required. Merely stating that the names of the alleged persons are present in FIR, cannot be sufficient to invoke Section 311A Cr.P.C. The criminal prosecution cannot be allowed to assume a character of *"fishing and roving Enquiry*. The Prosecution cannot be permitted to linger, limp and continue on the basis of mere hope and expectation that in the trial, some material may be found to implicate the accused. Such course of action is not contemplated in the system of criminal jurisprudence.



15. The observations regarding *the prima facie allegations of forgery of cheques against Amita Gandoak and her family members, is pre-judging the issue as the matter is at the stage of further investigations.* The Chargesheet has already been filed against the wife of the Petitioner and any observations on allegations of forgery, would cause prejudice to the accused persons.

16. It has not been considered that the Petitioner and his family members had joined the investigations on several occasions and cooperated with the Investigating Agency and they are still willing and ready to extent all cooperation. ***The Impugned Order has been passed in a mechanical way and is liable to be set-aside.***

17. **Status Report has been filed on behalf of the State** wherein it is submitted that after the registration of FIR No. 149/2014 on the Complaint of the Respondent No.2, Harkirat Singh Sodhi, the investigations were entrusted to SI Yogender, who during the investigations, collected three original cheques bearing signatures of Late Surinder Kaur Sodhi, which were allegedly forged by the accused, Amita Gandoak.

18. During the course of Investigation, Amita Gandoak and Ravinder Pal Singh/Petitioner herein, were interrogated and specimen handwriting and admitted Signatures/handwriting of *Amita Gandoak*, was obtained. The Complainant produced some photocopies of medical record of her late mother, Surinder Kaur Sodhi, which were taken on record. Mr. Rajiv Pal, servant of the Complainant, was examined, who mentioned that on 24.05.2010, Amita Gandoak had handed over one cheque dated 24.05.2010 for Rs.36,223/-, issued on Indian Overseas Bank, to withdraw the money. He, upon withdrawal, handed over the cash to Accused, *Amita Gandoak*.



19. On 31.10.2013, the Accused, Amita Gandoak had asked him to fill a self-cheque for Rs.1,80,000/-, which was signed on the front and back by her, in presence of Rajiv Pal Singh. Thereafter, accused, Amita Gandoak asked Rajiv Singh to withdraw the amount and hand over the same to Ms. Amita Gandoak.

20. On 04.11.2013, Amita Gandoak handed over a signed cheque book requisition slip of Indian Overseas Bank to Rajiv, who on her instructions filled it up on that day as Rajiv was busy with some work. *Accused, Amita Gandoak deputed Pawan to collect the cheque book, which was collected by him and handed over to Amita Gandoak, in the presence of Rajiv Pal Singh.* Some more cheques from Indian Overseas Bank, Golf Links, New Delhi having non-alleged/real signature of Late Surinder Kaur Sodhi, were also seized.

21. All these three alleged cheques and other cheques bearing original signatures of Late Surinder Kaur Sodhi and specimen signatures and admitted handwriting of Amita Gandoak, were sent to FSL Rohini, for ascertaining the authorship of the alleged/questioned signatures of Late Surinder Kaur Sodhi. *The Expert opinion has already been obtained wherein it is opined that the real signatures of Late Surinder Kaur Sodhi, did not match with the signatures in question and that they were forged.*

22. The Exhibits were again sent to FSL for further clarification regarding the authorship of forged signatures of Surinder Kaur Sodhi, specimen, handwriting and signatures of alleged Amita Gandoak. On the basis of expert opinion and statement of witnesses, it was found that the signatures of Surinder Kaur, on the three cheques in question, were forged and Amita Gandoak was the direct beneficiary of cheque dated 29.12.2008 for



Rs.61,400/- The Charge-Sheet has been filed against Amita Gandoak *while the Petitioner, Ravinder Pal Singh has been kept in Column No. 12*, on account of insufficient evidence.

23. After the filing of Charge-Sheet, a Protest Petition was filed by the Complainant for further investigations and monitoring by the learned Trial Court, on which the learned Trial Court directed the Investigating Officer, to conduct the further investigations on the following aspects:

- I. the documents of the contemporaneous period when the forgeries took place were not provided by the IO to the FSL when they were easily available to him.*
- II. Cheque bearing number 453323 dated 23.12.2013 was not sent to the FSL for comparison by the IO and accordingly, the complainant has apprehensions that Mr. Ravinder Singh, Mr. Parveet Gandoak and Ms. Deepali Gandoak were never questioned nor interrogated in the present case and their admitted signatures and handwritings were not seized by the IO nor the specimen signatures were obtained by the IO and hence, the question of sending them to FSL and seeking opinion could not arise.*
- III. It has also been alleged by the complainant that Mr. Parveet Gandoak and his childhood friend, Mr. Devottam Sen Gupta had conspired with first accused Mrs. Amita Gandoak, Mr. Ravinder Singh and Ms. Deepali Gandoak etc. To forge and fabricate documents and use the same so as to cause Fraud and Cheating upon the complainant and from the Charge Sheet, complainant found out that by means of cheque bearing number 949351 dated 28.08.2007 which was written by Mrs. Amita Gandoak and bore forged signatures of Ms. Sodhi, an amount of Rs. 26,575 was withdrawn from her account.*
- IV. Based on her said objections of the complainant with the manner in which investigation has been carried out, the applicant/ complainant has moved the present application in order to bring out the guilt of the real culprits.*



24. Aggrieved by the Order dated 06.07.2021 of the learned Trial Court, *W.P. (CRL.) No.1208/2021 and Crl.M.A. No. 10210/2021* was filed which was disposed of by this Court by directing the Investigating Officer, to further investigate the matter uninfluenced by the observations made by the learned Metropolitan Magistrate and if some documents need to be further examined, they may only be sent to CFSL but not to Truth Lab as had been directed in the Supplementary Report, within six months from the date of Order.

25. SI Yogendra again requested the alleged person to join the investigations and additional specimen signatures and handwriting of Amita Gandoak were taken, *but the Petitioner refused to give his specimen signatures and handwriting by stating that he would do so only after consulting his lawyer.*

26. During the interrogation of the Petitioner, he stated that there is a family property dispute between his wife and the Complainant (*Brother*) and in order to pressurize his family, the Complainant has filed this case against them. On asking about his specimen signature, he stated that in one Petition, the Complainant had accepted that all the documents were forged by Amita Gandoak and other persons did not forge the signatures. He also submitted the copy of Affidavit.

27. *SI Kishore obtained the original documents from the learned Trial Court and sent the exhibits to CFSL, again for analysis.*

28. Parveet Gandoak and Deepali Gandoak, in addition to accused Amita Gandoak and the Petitioner, were interrogated but they both stated that they did not forge the signatures and also refused to give their specimen



signatures and hand writing, to the Investigating Officer/SI Nikhil Raman by stating that they would do so only, if directed by the Court.

29. On 06.01.2023, SI Nikhil Raman filed the Application before the learned Trial Court seeking directions to the alleged persons to appear and give specimen signature and handwriting. Accordingly, on 19.01.2023, the learned Trial Court directed Ravinder Gandoak, Parveet Gandoak and Deepali Gandoak to appear before the Court on 03.02.2023 and give their specimen signatures and handwriting.

30. In the meanwhile, the result from CFSL, CGO Complex, Lodhi road, Delhi, was obtained and a Supplementary Charge-Sheet dated 27.01.2023, was filed in the Court.

31. It is submitted that *all the alleged persons are named in the FIR and for the fair investigations, their specimen signatures and handwriting is needed to be sent to CFSL for comparison.*

32. *Written Submissions have been filed on behalf of the Petitioner* wherein the averments made in the Petition, have been reiterated.

33. It is submitted that the *proviso* to Section 311A Cr.P.C. explicitly governs and controls the main provision, stating that no order under this section shall be made unless the accused has, at some point, been arrested in connection with the investigation or proceeding and in this reliance has been placed on Suyog v. State of Maharashtra, 2014 SCC OnLine Bom 510, Manoj Umar v. Vipin Gautam, 2016 SCC OnLine Del 4745, and Jaswinder Singh v. Rakesh Kumar Jain 2023 PHHC 087715.

34. It is a well-established principle of statutory interpretation that a Proviso typically serves to exclude or qualify something that would otherwise fall within the purview of the main Section. As per the *Proviso to*



Section 311A, the power conferred upon a Magistrate to direct an individual to provide specimen signatures, can only be invoked when the accused has been arrested in connection with the relevant investigation or proceedings. In this regard, reliance has been placed on B.C. Radhakrishnan & Ors. v. Saju Thuruthikunnen & Anr. (2013) SCC OnLine Ker 24224, and Christopher Sam Miller v. Inspector of Police, 2017 SCC OnLine Mad 36949.

35. On a careful examination of the proviso, it is evident that *the arrest of the accused is an essential pre-condition* for invoking the Magistrate's power under Section 311A Cr.P.C. Reliance has been placed on Vinod Kumar Singh v. State of UP & anr. 2019 SCC OnLine ALL 5029.

36. The Application moved by the IO to obtain specimen signatures of the Petitioner and his children, is nothing but a counterblast to the Application filed by Petitioner's wife seeking monitoring of the Investigation. In her Application, she had already highlighted the malicious intent of the Complainant to manipulate the investigation, clearly aimed at causing undue harassment to her and her family members. This retaliatory Application lacks substantive grounds and appears to be an attempt to derail the focus from the Complainant's improper conduct.

37. Written Submissions have been filed by Respondent No. 2 wherein the core argument rebuts the Petitioner's contention that the specimen could not be taken *because he was not arrested*. It is contended that Section 311A Cr.P.C.----????? The proviso to this Section cannot be read to render the main provision "*otiose, redundant and derogate its legislative intent*". The legislative intent of the proviso to Section 311A Cr.P.C. is that the Magistrate's jurisdiction to require specimens applies to *an accused only if*



they have been arrested in connection with the inquiry or trial, but not otherwise.

38. The Respondent has argued that this *Proviso* does not apply to “**any other person**” such as a complainant, suspect, witness, or any person other than an accused. *Since the Petitioner is not an “accused” as he is not charge-sheeted under Section 173 Cr.P.C*, he falls under the category of “any other person”, and therefore, the *proviso* to Section 311A is not applicable to him.

39. It is submitted that the Petitioner’s signatures are necessary for a just and proper investigation, and his refusal highlights his non-cooperative nature.

40. *The Respondent No. 2 prays that the present Petition be dismissed and the Impugned Order dated 19.01.2023 be upheld.*

Submissions Heard and Record Perused.

41. The present case originates from an FIR No. 149 of 2014 dated 17.11.2014 registered at PS Tughlak Road under Sections 420/468/471/120B IPC, based on the Complaint of Respondent No. 2.

42. Respondent No. 2/Complainant and the Petitioner’s wife Smt. Amita Gandoak, are brother and sister. The case involves alleged forgeries related to the accounts of the mother of Respondent No. 2, Mrs. Surinder Kaur Sodhi. One joint account was of Mrs. Surinder Kaur Sodhi and Respondent No. 2/Complainant. Another joint account was of Mrs. Surinder Kaur Sodhi and the Petitioner’s wife. Mrs. Surinder Kaur Sodhi expired on 31.03.2014, and the forgeries were found while ascertaining the account.



43. The forgery of the signatures of Mrs. Surinder Kaur Sodhi on cheques from Account No. 9064, were allegedly done by the Petitioner's wife and her family, along with accomplices.

44. Chargesheet was filed on 11.12.2019 against Amita Gandoak while the Petitioner and others, were kept in Column NO.12 for lack of sufficient evidence. Further investigation was directed by the Ld. M.M. in June 2021. During further investigation, the Petitioner refused to give specimen signatures and handwriting, which led the I.O. to file the Application under S.311A CrPC, that resulted in the Impugned Order.

45. The Issue raised is whether the Trial Court can allow the Application under Section 311A (*proviso*) Cr.P.C. *qua* the Petitioner, *when he claims to be not an accused person.*

46. Prior to the introduction of Section 311A, the power of a court to compare disputed handwriting with admitted/proved handwriting, was derived from **Section 73 of the Indian Evidence Act, 1872**. The Supreme Court, in a series of judgments, consistently held that this power was restrictive and could not be extended to the investigation stage.

47. In the landmark judgment of *State of U.P. v. Ram Babu Misra,* (1980) 2 SCC 343 the Apex Court held the limitations of Section 73, holding that the provision "*does not empower the Magistrate to direct the accused to give his specimen writing during the course of investigation*". The Court observed that Section 73 only permits a court to give a direction for comparison in a proceeding already pending before it, not for an anticipated necessity in a proceeding that may later be instituted.



48. Reinforcing the principle in Sukhvinder Singh v. State of Punjab, (1994) 5 SCC 152, the Supreme Court stressed that the direction to an accused to give specimen writing “*can only be issued by the court holding enquiry under CrPC or the court conducting trial of such accused*”. The Court further held that “*where case still under investigation and no proceedings pending in any court, the accused cannot be compelled to give specimen writing*”.

49. This limitation of seeking handwriting samples only during the trial, created a significant impediment to the investigation of forgery, cheating, and other document-based crimes, necessitating the subsequent legislative change.

50. The jurisdictional gap that existed in the law, whereby a court’s power to obtain samples was limited to the inquiry or trial stage, leaving the investigating Agency powerless to seek such a direction during the crucial stage of Investigation. Code of Criminal Procedure (Amendment) Act, 2005 (w.e.f. 23.06.2006), was introduced to address this judicial anomaly concerning the power of courts to compel individuals, *particularly the accused*, to provide specimen handwriting or signatures for investigation and comparison.

51. The Statement of object and reasoning of Section 311A reads as under:-

“the Hon’ble Supreme Court of India in State of Uttar Pradesh vs. Ram Babu Mishra, (1980) 2 SCC 343, suggested that a suitable legislation be made on the analogy of Section 5 of the Identification of Prisoners Act, 1980, to provide for the investigation of the Magistrates with the power to issue directions to any person,



including an accused person, to give specimen signatures and handwriting. A new Section 311A is accordingly being inserted.”

52. Section 311A remedied the deficiency by explicitly granting the power to compel the creation of samples *during the investigation stage*. The provision is extracted as under for reference:

“311-A - Power of Magistrate to order person to give specimen signatures or handwriting

[Inserted by Act of 2005, Section 27 (w.e.f. 23-6-2006)]

*- If a Magistrate of the first class is satisfied that, for the purposes of any **investigation or proceeding** under this Code, it is expedient to direct any person, including an accused person, to give specimen signatures or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting:*

Provided that no order shall be made under this Section unless the person has at some time been arrested in connection with such investigation or proceeding.”

53. A bare perusal of the provision reveals that a Metropolitan Magistrate or a Judicial Magistrate of the first class is empowered to pass such an Order *to direct any person, including an accused person, to give specimen signatures or handwriting* for the purposes of any “*investigation or proceeding*.”

54. The Apex Court in the judgment of Sukh Ram v. State of H.P., (2016) 14 SCC 183, directly addressed the “*authority of Judicial Magistrate/Executive Magistrate to take specimen writing and signatures*” under S. 311A, confirming its application during investigation stage.



55. Learned counsel for the Petitioner, has challenged the Order dated 19.01.2023 of the learned Metropolitan Magistrate, directing him to appear for taking of his handwriting samples essentially in the light of proviso to Section 311A, which clearly states that no orders can be made under Section 311A unless the person has been arrested.

56. The Petitioner has relied on Proviso to S.311 A to contend that since he was never arrested, he cannot be directed to provide his hand writing specimen. In this regard, it would be relevant to refer to State of Kerala and Anr. vs. Six Holiday Resorts Private Limited, (2010) 5 SCC 186 wherein the functionality of proviso to a Section was discussed. It was observed that a *proviso* may either qualify or except certain provisions from the main provision; or it can change the very concept of the intendment of the main provision by incorporating certain mandatory conditions to be fulfilled; or it can temporarily suspend the operation of the main provision. Ultimately, the proviso has to be construed upon its terms. Merely because it suspends or stops further operation of the main provision, it does not become invalid.

57. Likewise, in the case of Kedarnath Jute Manufacturing Co. Ltd. vs. Commercial Tax Officer and Others, 1965 SCC OnLine SC 32, the Apex Court observed that it is well-settled that “*the effect of an exception or qualifying proviso, according to the ordinary rules of construction, is to except out of the preceding portion of the enactment, or to qualify something enacted therein, which but for the proviso would be within it.*”

58. If the intention of the legislature was to give exemption if the terms of the substantive part of the main provision alone to be complied with, the proviso becomes redundant and otiose.



59. The main contention of the Petitioner, is that he was not named as an accused in Column No. 11 but was put in Column No. 12 and, therefore, in terms of proviso to Section 311A Cr.P.C, “*he had not been arrested and therefore, no directions can be given to him to give his handwriting sample.*”

60. This aspect was specifically and directly addressed by the Allahabad High Court in the case of Vinod Kumar Singh v. State of U.P., 2019 SCC OnLine All 5029 wherein the core issue was “*Whether the Magistrate can issue directions under Section 311-A Cr.P.C. to a person pending investigation of a crime to give a specimen of his signature or handwriting, if at no time he has been arrested in connection with the said crime?*”

61. It was observed that in the first blush, it seems that the proviso by conditioning to direct under the main provision any person, including an accused, to provide his specimen signature or handwriting, with the requirement that such person should have been arrested at some time in connection with that investigation or proceeding, would certainly exclude witnesses, the complainant, or the still other and wider “any other person” from the purview of the Magistrate’s jurisdiction under Section 311-A Cr.P.C. It would be limited to a narrow class of persons, who are accused of an offence, and, that too, when such person, are arrested in connection with the investigation or proceeding, but not the other accused, who have not been arrested. This indeed would lead to the proviso controlling and limiting the operation of the principal clause of Section 311-A to an extent that it would lead to an absurd result. It is a settled principle of construction that the clauses of statute including its proviso, must be harmoniously construed in a manner that eschews an absurd conclusion. It was further observed that



if Section 311-A is construed in the manner that no person unless arrested in connection with the enquiry or trial involved, can be directed by the Magistrate, persons like the complainant or witnesses, who would hardly ever be arrested in connection with the inquiry or trial involved, they were to defy witness summons, would always be away from the Magistrate's jurisdiction under Section 311-A Cr.P.C. This possibly could never be the legislative intent. The import of the proviso is that the jurisdiction of the Magistrate under Section 311-A Cr.P.C, would be available in case of the accused alone, if he has been arrested in connection with the relative inquiry or trial, but not otherwise. The Proviso would not apply in the case of "*any other person*", *other than the accused*. It would not apply in case of a complainant, a witness, other than an accused. Any other construction would lead to an absurdity, which the legislature could never have intended.

62. In regard to the arrest of the accused, it was observed by the Madras High Court in the Case of Babitha Surendran vs. State rep by Inspector of Police, 2015 CriLJ 5016, wherein it was observed that it is trite law that arrest is not compulsory in every case as held in Joginder Kumar vs. State of U.P., AIR 1994 SC 1349. If the Police Officer consciously decides to follow the Supreme Court dictum in Joginder Kumar's case and does not affect arrest, then he will be precluded from obtaining specimen handwriting and signatures from the accused, which cannot be the intent of Section 311-A Cr.P.C.

63. Likewise, in the case of Christopher Sam Miller vs. Inspector of Police in Criminal Original Petition (MD) No. 9985/2011, decided on 21.11.2017, it was held that the *proviso* is meant to be an exception to



something within the main enactment or to qualify something enacted therein, but for the proviso, it would be within the purview of the enactment.

64. In the light of the aforesaid, it emerges from the comprehensive and harmonious reading of Section 311 and its proviso and by applying the mischief rule or the rule of *Heydon's Case*, permitting the Court to read a statute valiantly alone, when a literal construction would lead to an absurd result. It is evident that the requirement of person being under arrest in terms of *proviso*, is limited to the accused and not to any other person stated in Section 311 Cr.P.C.

65. It also emerges that the arrest of a person does not imply that he should have been physically arrested but if he is arrayed as an accused, the investigations against him including the arrest, has to be done in accordance with the **dictate** of the Hon'ble Supreme Court of India in the various Judgments, which direct that no arrest be made unless mandatorily required. In this regard, reference may also be made to the guidelines that have been led in the Case of *Arnesh Kumar vs. State of Bihar & Anr.*

66. Therefore, the requirement of Proviso to 311-A Cr.P.C would be satisfied if the person is arrayed as an accused and is required to give the sample of his signatures/handwriting for the purpose of instigations.

67. The facts of the present case may now be considered in the light of the aforesaid discussion. A bare perusal of the Chargesheet filed in the case, reveals that the Petitioner, though included in 12th Column, but is stated to be "*on Court Bail*". The accused could only be on Court Bail, if he was arrested in some manner at some point in time, which is enough to bring his case out of the exception provided in the given *proviso*.



68. The judgment of *Vinod Kumar Singh* (supra), underscores that the fact of “*having been arrested at some time*” as a condition for the Magistrate to assume jurisdiction and issue a compulsory direction under Section 311A, is met in the instant case.

69. Thus, this contention of the Petitioner is untenable in law.

Order:

70. In view of the aforesaid discussion, the Petition is hereby dismissed as without merit. The Petitioner is directed to comply with the directions of the Ld. Magistrate.

71. The pending Application(s), if any, are accordingly disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JANUARY 05, 2026

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