

04.03.2025

Order on I.A. filed under Sec.45 of
Indian Evidence Act.

The accused has filed the application with a prayer to send the disputed signature/initials on the receipt produced by the accused and the admitted signature of the complainant for the opinion of handwriting expert.

2. In the application it is stated that, a small book has been confronted by the accused during the course of cross-examination of the complainant. The complainant has put his signature/initial stating that, accused has paid installments from March-2019 to December-2019 and February-2020. However, complainant has denied his own signature on said receipt, but stated that, he has no objection to send the said document to handwriting expert. To prove the payment of installment, it is just and proper to refer the documents and admitted, disputed signatures of complainant to handwriting expert. **With these averments, he prayed to allow the application.**

3. Complainant has filed objection contending that, entries in the personal diaries with regard to cash and commercial transactions do not have any evidentiary value, hence it is futile to subject the same to expert opinion. The document sought to be referred to expert opinion is not the subject matter of this case. The accused has to prove the same through his evidence. If the accused has paid the amounts, he should have replied the notice issued by the

complainant. The accused has filed this application with a malafide intention. **With these averments, he prayed to reject the application.**

4. Heard the arguments of both sides. Perused the materials placed on record.

5. Now the points that arise for consideration of this Court are as under:

1. Whether the accused has made out a ground to allow this application?

2. What order?

6. My answer to the above points are as under:

Point No.1:- In the **Negative.**

Point No.2:- As per final order for the following:

:: REASONS ::

7. **POINT No.1**:- Admittedly the complainant has filed this application under Sec.45 of Indian Evidence Act. In the instant case, complainant as well as accused have adduced their evidence. During the course of examination-in-chief of accused, small diary came to be marked as Ex.D.1. According to the accused, the complainant received certain amount and affixed his initials in the said diary. However, during the course of cross-examination of P.W.1, he has denied his initials found in Ex.D.1. Hence, scientific examination is necessary.

8. It is relevant to note that, the accused has admitted the service of notice. Further, he has admitted that, he has

not issued any reply. Apart from that, at the time of examination of accused as required under Sec.313 of Cr.P.C., he has not whispered single word about the existence of Ex.D.1. If really the complainant received certain amount and affixed his signature, what was the impediment for the accused to give reply notice and also disclose the existence of Ex.D.1 at the time of recording 313 statement. Therefore, the accused has not made out any ground to send Ex.D.1 for scientific examination. Accordingly Point No.1 is answered in the **affirmative**.

9. **POINT No.2:-** In view of discussion referred above, this Court proceeds to pass the following:

:: ORDER ::

The application filed by the accused under Sec.45 of Indian Evidence Act is hereby rejected.

For arguments for both side by
19.03.2025.

VI ASCJ and ACMM
Bengaluru.

SCCH-2

C.C.7368/2021