2026:HHC:31279

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. MMO No: 542 of 2026
Reserved on: 20.07.2026
Date of Decision: 29.07.2026

Madhu Gupta & Ors. ..Petitioner

Versus

State of H.P. & Anr. ...Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] Yes

For the Petitioner : M/s Virbahadur Verma & Aditya Singh Thakur, Advocate.

For Respondent/State : Mr Prashant Sen, Deputy Advocate General.

Rakesh Kainthla, Judge

The petitioner has filed a present petition against the order dated on 01.03.2025 passed by the learned Additional Sessions Judge-I, Solan vide which the order dated 29.01.2018 passed by the learned Judicial Magistrate First Class, Solan (learned Trial Court) was set aside. (*The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).*

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

2. Briefly stated, the facts giving rise to the present petition are that the complainant Nand Lal, accused Vinod Gupta and Smt. Madhu Gupta are partners of the firm Tee & Tee Healthcare, Chewa, Tehsil and District Solan. The accused Vinod Gupta, Madhu Gupta, Naveen Gupta and Sumit Gupta forged the complainant's signature on the cheque of ₹60,00,000/- issued in favour of M/s Passim Medichem Agency. The cheque was honoured and ₹60,00,000/- were deducted from the account of the firm. The complainant came to know about this fact, and he reported the matter to the police. The police registered the FIR and investigated the matter. The specimen and disputed signatures were sent to the FSL, but the authorship of the disputed signatures could not be determined. The cheques were sent to CFSL Chandigarh, and as per the report of the CFSL, the complainant's signatures matched the disputed signatures. Hence, the police filed a cancellation report.

3. The complainant filed a protest petition. The learned Trial Court directed the Investigating Officer to carry out further investigation. The Investigating Officer conducted further investigation, but maintained that no offence was made out.

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

4. The Learned Trial Court held that the report of CFSL showed that the complainant's signatures matched the disputed signatures. There was no reason to disbelieve the correctness of the report of CFSL Chandigarh. No offence was made out in the present case. Hence, the cancellation report was accepted, and the FIR was ordered to be cancelled.

5. Being aggrieved by the order passed by the learned Trial Court, the complainant filed a revision which was decided by the learned Additional Session Judge -I, Solan, District Solan, (learned Revisional Court). The learned Revisional Court held that the complainant had filed a protest petition before the Court. The complainant had a right to lead preliminary evidence in support of the averments made in the protest petition. The learned Trial Court had not provided such an opportunity. Hence, the order passed by the learned Trial Court was set aside, and the matter was remitted to the learned Trial Court with a direction to allow the complainant to lead evidence in support of the protest petition and to treat the protest petition as a complaint.

6. Being aggrieved by the order passed by the learned Revisional Court, the accused has filed the present petition

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

asserting that the learned Revisional Court exceeded the jurisdiction vested in it. The protest petition was based upon the report of the FSL, which was superseded by the report of CFSL. The complainant had filed a false complaint and his signatures tallied with the disputed signatures. The learned Revisional Court erred in opening a closed matter without satisfying the necessary conditions provided in Sections 223 to 226 of Bhartiya Nagrik Suraksha Sanhita (BNSS). Therefore, it was prayed that the present petition be allowed and the order passed by the learned Revisional Court be set aside.

7. I have heard Mr Virbahadur Verma and Aditya Singh, learned counsel for the petitioner and Mr Prashant Sen, learned Deputy Advocate General for the respondent/State.

8. Mr Virbahadur Verma, learned counsel for the petitioner, submitted that the report issued by CFSL states that the complainant's signatures matched the disputed signatures. The learned Revisional Court erred in directing the learned Trial Court to treat the protest petition as a complaint. Therefore, he prayed that the present petition be allowed and the order passed by the learned Revisional Court be set aside.

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

9. Mr Prashant Sen, learned Deputy Advocate General for the respondent/State submitted that the complainant was not allowed to produce the evidence in support of the protest petition and the learned Revisional Court had rightly directed the complainant to produce the evidence before the learned Trial Court. There is no infirmity with the procedure adopted by the learned Revisional Court. Hence, he prayed that the present petition be dismissed.

10. I have given a considerable thought to the submissions made at the bar and have gone through the records carefully.

11. A perusal of the order of the learned Revisional Court shows that the learned Revisional Court had directed the learned Trial Court to treat the protest petition as a complaint and to proceed thereafter. Therefore, as on today, a protest petition is pending before the learned Trial Court, which is being ordered to be treated as a complaint. The accused does not have any right to appear before the issuance of summons to him. It was laid down by the full bench of Allahabad High Court in ***Father Thomas v. State of U.P., 2010 SCC OnLine All 2438 : (2011) 72 ACC 564*** that the prospective accused has no right to be heard before issuing

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

summons to him and he cannot challenge an order of registration of FIR. It was observed at page 570

> **34.** From a consideration of the aforesaid authorities, it is apparent that even when a complaint is filed under section 190(1)(a) and the Court decides to take cognizance and to adopt the procedure provided for inquiry under sections 200 and 202 Cr. P.C. the accused is only permitted to remain present during the proceedings, but not to intervene or to raise his defence, until the order issuing summons is passed. The right of hearing of a prospective accused at the pre-cognisance stage, when only a direction for investigation by the police is issued by the Magistrate under section 156(3) Cr. P.C., can only be placed at a lower pedestal. It is only during the course of trial that the accused has been conferred rights at different stages to raise his defence. As the authorities show, in the absence of any statutory right of hearing to the prospective accused at the pre-cognisance stage, when the direction to investigate has only been issued by the Magistrate under section 156(3), the accused cannot be conferred with any right of hearing even under any principle of *audi alteram partem*.
>
> **xxxxx**
>
> **37.** In the light of the aforesaid discussion, it is abundantly clear that the prospective accused has no *locus standi* to challenge a direction for investigation of a cognizable case under section 156(3) Cr. P.C. before cognisance or issuance of process against the accused. The first question is answered accordingly.

12. A *fortiori*, the accused does not have a right to challenge the proceedings when the Magistrate is only recording the statements of the witnesses. Therefore, the present petition is not maintainable.

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

13. A heavy reliance was placed upon the report of CFSL to submit that there was no forgery and the complainant's signatures matched the disputed signatures. This submission will not help the accused. It was laid down by the Hon'ble Supreme Court in ***S. Gopal Reddy v. State of A.P., (1996) 4 SCC 596: 1996 SCC (Cri) 792*** that the report of a handwriting expert is opinion evidence and requires corroboration from independent sources. It was observed at page 614:

> **28.** Thus, the evidence of PW 3 is not definite and cannot be said to be of a clinching nature to connect the appellant with the disputed letters. The evidence of an expert is a rather weak type of evidence and the courts do not generally consider it as offering 'conclusive' proof and therefore safe to rely upon the same without seeking independent and reliable corroboration. In ***Magan Bihari Lal v. State of Punjab [(1977) 2 SCC 210: 1977 SCC (Cri) 313: AIR 1977 SC 1091***], while dealing with the evidence of a handwriting expert, this Court opined: (SCC pp. 213-14, para 7)
>
> > "... We think it would be extremely hazardous to condemn the appellant merely on the strength of opinion evidence of a handwriting expert. It is now well settled that expert opinion must always be received with great caution and perhaps none so with more caution than the opinion of a handwriting expert. There is a profusion of precedential authority which holds that it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon, and it has almost become a rule of law. It was held by this Court in ***Ram Chandra v. State of U.P. [AIR 1957 SC 381: 1957 Cri LJ 559***] that it is unsafe to

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

> treat expert handwriting opinion as sufficient basis for conviction, but it may be relied upon when supported by other items of internal and external evidence. This Court again pointed out in ***Ishwari Prasad Misra v. Mohd. Isa [AIR 1963 SC 1728: 1963 BLJR 226***] that expert evidence of handwriting can never be conclusive because it is, after all, opinion evidence, and this view was reiterated in *Shashi Kumar Banerjee* v. *Subodh Kumar Banerjee* [AIR 1964 SC 529] where it was pointed out by this Court that expert's evidence as to handwriting being opinion evidence can rarely, if ever, take the place of substantive evidence and before acting on such evidence, it would be desirable to consider whether it is corroborated either by clear direct evidence or by circumstantial evidence. This Court had again occasion to consider the evidentiary value of expert opinion in regard to handwriting in ***Fakhruddin v. State of M.P. [AIR 1967 SC 1326 : (1967) 2 Andh LT 38***] and it uttered a note of caution pointing out that it would be risky to found a conviction solely on the evidence of a handwriting expert and before acting upon such evidence, the court must always try to see whether it is corroborated by other evidence, direct or circumstantial."

14. It was held by the Hon'ble Supreme Court in ***Padum Kumar v. State of U.P.*, (2020) 3 SCC 35**, that the report of the handwriting expert can be relied upon if corroborated by other evidence. It was observed: -

> **14.** The learned counsel for the appellant has submitted that, without independent and reliable corroboration, the opinion of the handwriting experts cannot be relied upon to base the conviction. In support of his contention, the learned counsel for the appellant has placed reliance upon ***S. Gopal Reddy v. State of A.P. [S. Gopal Reddy v. State of A.P., (1996) 4 SCC 596: 1996 SCC (Cri) 792]***, wherein the Supreme Court held as under: (SCC pp. 614-15, para 28)

High Court of HP

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

"*28*. Thus, the evidence of PW 3 is not definite and cannot be said to be of a clinching nature to connect the appellant with the disputed letters. The evidence of an expert is a rather weak type of evidence, and the courts do not generally consider it as offering "conclusive" proof and therefore safe to rely upon the same without seeking independent and reliable corroboration. In ***Magan Bihari Lal v. State of Punjab [Magan Bihari Lal v. State of Punjab, (1977) 2 SCC 210: 1977 SCC (Cri) 313],*** while dealing with the evidence of a handwriting expert, this Court opined: (SCC pp. 213-14, para 7)

'7. ... we think it would be extremely hazardous to condemn the appellant merely on the strength of opinion evidence of a handwriting expert. It is now well settled that expert opinion must always be received with great caution, and perhaps none so with more caution than the opinion of a handwriting expert. There is a profusion of precedential authority that holds that it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon, and it has almost become a rule of law. It was held by this Court in ***Ram Chandra v. State of U.P. [Ram Chandra v. State of U.P., AIR 1957 SC 381: 1957 Cri LJ 559]*** that it is unsafe to treat expert handwriting opinion as a sufficient basis for conviction, but it may be relied upon when supported by other items of internal and external evidence. This Court again pointed out in ***Ishwari Prasad Misra v. Mohd. Isa [Ishwari Prasad Misra v. Mohd. Isa, AIR 1963 SC 1728]*** that expert evidence of handwriting can never be conclusive because it is, after all, opinion evidence, and this view was reiterated in *Shashi Kumar Banerjee* v. *Subodh Kumar Banerjee* [*Shashi Kumar Banerjee* v. *Subodh Kumar Banerjee*, AIR 1964 SC 529] where it was pointed out by this Court that an expert's evidence as to

High Court of HP

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

> handwriting being opinion evidence can rarely, if ever, take the place of substantive evidence and before acting on such evidence, it would be desirable to consider whether it is corroborated either by clear direct evidence or by circumstantial evidence. This Court had again occasion to consider the evidentiary value of expert opinion in regard to handwriting in ***Fakhruddin v. State of M.P. [Fakhruddin v. State of M.P., AIR 1967 SC 1326: 1967 Cri LJ 1197]*** and it uttered a note of caution pointing out that it would be risky to found a conviction solely on the evidence of a handwriting expert and before acting upon such evidence, the court must always try to see whether it is corroborated by other evidence, direct or circumstantial.'"

15. Of course, it is not safe to base the conviction solely on the evidence of the handwriting expert. As held by the Supreme Court in ***Magan Bihari Lal v. State of Punjab [Magan Bihari Lal v. State of Punjab, (1977) 2 SCC 210: 1977 SCC (Cri) 313]*** that: (SCC p. 213, para 7)

> "7. ... expert opinion must always be received with great caution ... it is unsafe to base a conviction solely on expert opinion without substantial corroboration. This rule has been universally acted upon, and it has almost become a rule of law."

16. It is fairly well settled that before acting upon the opinion of the handwriting expert, prudence requires that the court must see that such evidence is corroborated by other evidence, either direct or circumstantial evidence. In ***Murari Lal v. State of M.P. [Murari Lal v. State of M.P., (1980) 1 SCC 704: 1980 SCC (Cri) 330]***, the Supreme Court held as under: (SCC pp. 708-09, paras 4 and 6)

> "4. ... True, it has occasionally been said on very high authority that it would be hazardous to base a conviction solely on the opinion of a handwriting expert. But, the hazard in accepting the opinion of any expert, handwriting expert or any other kind of

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

expert, is not because experts, in general, are unreliable witnesses — the quality of credibility or incredibility being one which an expert shares with all other witnesses — but because all human judgment is fallible and an expert may go wrong because of some defect of observation, some error of premises or honest mistake of conclusion. The more developed and the more perfect a science, the less the chance of an incorrect opinion and the converse if the science is less developed and imperfect. The science of the identification of fingerprints has attained near perfection, and the risk of an incorrect opinion is practically non-existent. On the other hand, the science of handwriting identification is not nearly so perfect, and the risk is, therefore, higher. But that is a far cry from doubting the opinion of a handwriting expert as an invariable rule and insisting upon substantial corroboration in every case, howsoever the opinion may be backed by the soundest of reasons. It is hardly fair to an expert to view his opinion with an initial suspicion and to treat him as an inferior sort of witness. His opinion has to be tested by the acceptability of the reasons given by him. An expert deposes and not decides. His duty "is to furnish the Judge with the necessary scientific criteria for testing the accuracy of his conclusion, so as to enable the Judge to form his own independent judgment by the application of these criteria to the facts proved in evidence [Vide Lord President Cooper in ***Davis v. Edinburgh Magistrate, 1953 SC 34*** quoted by Professor Cross in his evidence].

5. ***

6. Expert testimony is made relevant by Section 45 of the Evidence Act, and where the Court has to form an opinion upon a point as to identity of handwriting, the opinion of a person "specially skilled" in questions as to identity of handwriting is expressly made a relevant fact. ... So, corroboration may not

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

> invariably be insisted upon before acting on the opinion of a handwriting expert, and there need be no initial suspicion. But, on the facts of a particular case, a court may require corroboration of a varying degree. There can be no hard-and-fast rule, but nothing will justify the rejection of the opinion of an expert supported by unchallenged reasons on the sole ground that it is not corroborated. The approach of a court while dealing with the opinion of a handwriting expert should be to proceed cautiously, probe the reasons for the opinion, consider all other relevant evidence and finally decide to accept or reject it."

15. A similar view was taken in ***Chennadi Jalapathi Reddy v. Baddam Pratapa Reddy*, *(2019) 14 SCC 220***, wherein it was observed: -

> **10.** By now, it is well settled that the court must be cautious while evaluating expert evidence, which is a weak type of evidence and not substantive in nature. It is also settled that it may not be safe to solely rely upon such evidence, and the court may seek independent and reliable corroboration in the facts of a given case. Generally, mere expert evidence as to a fact is not regarded as conclusive proof of it. In this respect, reference may be made to a long line of precedents that includes ***Ram Chandra v. State of U.P. [Ram Chandra v. State of U.P., AIR 1957 SC 381: 1957 Cri LJ 559], Shashi Kumar Banerjee v. Subodh Kumar Banerjee [Shashi Kumar Banerjee v. Subodh Kumar Banerjee, AIR 1964 SC 529], Magan Bihari Lal v. State of Punjab [Magan Bihari Lal v. State of Punjab, (1977) 2 SCC 210: 1977 SCC (Cri) 313]*** and ***S. Gopal Reddy v. State of A.P. [S. Gopal Reddy v. State of A.P., (1996) 4 SCC 596: 1996 SCC (Cri) 792]***
>
> **11.** We may particularly refer to the decision of the Constitution Bench of this Court in ***Shashi Kumar Banerjee [Shashi Kumar Banerjee v. Subodh Kumar Banerjee, AIR 1964 SC 529],*** where it was observed that the evidence of a

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

handwriting expert can rarely be given precedence over substantive evidence. In the said case, the court chose to disregard the testimony of the handwriting expert as to the disputed signature of the testator of a will, finding such evidence to be inconclusive. The court instead relied on the clear testimony of the two attesting witnesses as well as the circumstances surrounding the execution of the will.

12. On the other hand, in ***Murari Lal v. State of M.P. [Murari Lal v. State of M.P., (1980) 1 SCC 704: 1980 SCC (Cri) 330]***, this Court emphasised that reliance on expert testimony cannot be precluded merely because it is not corroborated by independent evidence, though the Court must still approach such evidence with caution and determine its creditworthiness after considering all other relevant evidence. After examining the decisions referred to supra, the Court was of the opinion that these decisions merely laid down a rule of caution, and there is no legal rule that mandates corroboration of the opinion evidence of a handwriting expert. At the same time, the Court noted that Section 46 of the Evidence Act, 1872 (hereinafter "the Evidence Act") expressly makes opinion evidence open to challenge on facts. In ***Alamgir v. State (NCT of Delhi) [Alamgir v. State (NCT of Delhi), (2003) 1 SCC 21: 2003 SCC (Cri) 165]***, without referring to Section 46 of the Evidence Act, this Court reiterated the observations in ***Murari Lal [Murari Lal v. State of M.P., (1980) 1 SCC 704: 1980 SCC (Cri) 330]*** and stressed that the court must exercise due care and caution while determining the creditworthiness of expert evidence.

13. In our considered opinion, the decisions in ***Murari Lal [Murari Lal v. State of M.P., (1980) 1 SCC 704: 1980 SCC (Cri) 330***] and ***Alamgir [Alamgir v. State (NCT of Delhi), (2003) 1 SCC 21: 2003 SCC (Cri) 165]*** strengthen the proposition that it is the duty of the court to approach opinion evidence cautiously while determining its reliability and that the court may seek independent corroboration of such evidence as a general rule of prudence. Clearly, these observations in ***Murari Lal [Murari Lal v. State of M.P., (1980) 1 SCC 704: 1980 SCC (Cri) 330]*** and ***Alamgir [Alamgir v. State (NCT of Delhi),***

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

> *(2003) 1 SCC 21: 2003 SCC (Cri) 165]* do not go against the proposition stated in ***Shashi Kumar Banerjee [Shashi Kumar Banerjee v. Subodh Kumar Banerjee, AIR 1964 SC 529]*** that the evidence of a handwriting expert should rarely be given precedence over substantive evidence.

16. Therefore, the reliance could not have been placed on the report of the handwriting expert alone to conclude that there was no forgery.

17. In the present case, the informant had filed a protest petition. It was laid down by the Calcutta High Court in ***Sushil Kumar Hazra v. Banka Mahato, 1957 SCC OnLine Cal 196: (1956-57) 61 CWN 624*** that the informant has a right to file a protest petition, and once such a petition is filed, the magistrate is bound to examine the complainant and witnesses and proceed as per the law. It was observed at page 627:

> **7.** This order did not in any way involve consideration of the merits of the case. When the Naraji petition was filed, it was clearly the duty of the Magistrate to treat it as a complaint, and to proceed straightaway to the examination of the complainant under Sec. 200 of the Code of Criminal Procedure. Instead of doing that, the learned Magistrate directed a judicial enquiry to be held. At this enquiry some evidence was taken, and a report followed on receipt of which the Magistrate directed the issue of process against the petitioners. Clearly this involved infringement of the mandatory provisions of the law inasmuch as the Magistrate had failed to examine the complainant on Oath in accordance with the provisions of section 200 of the Code of Criminal Procedure. This position was realised by the

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

> previous Magistrate who dealt with this matter and he accordingly 'discharged' the accused from the proceedings obviously on the ground that they had no legal origin. I do not think that the Magistrate acted improperly in making the order of discharge in this case, although technically it could not be said to be an order under section 253 of the Code of Criminal Procedure.

18. A similar view was taken in ***Gangadhar Janardan Mhatre v. State of Maharashtra*, *(2004) 7 SCC 768: 2004 SCC OnLine SC 1214*** wherein it was observed at page 774:

> **13.** When the information is laid with the police, but no action in that behalf is taken, the complainant is given power under Section 190 read with Section 200 of the Code to lay the complaint before the Magistrate having jurisdiction to take cognisance of the offence and the Magistrate is required to enquire into the complaint as provided in Chapter XV of the Code. In case the Magistrate, after recording evidence, finds a prima facie case, instead of issuing process to the accused, he is empowered to direct the police concerned to investigate the offence under Chapter XII of the Code and to submit a report. If he finds that the complaint does not disclose any offence to take further action, he is empowered to dismiss the complaint under Section 203 of the Code. In case he finds that the complaint/evidence recorded prima facie discloses an offence, he is empowered to take cognisance of the offence and would issue process to the accused. These aspects have been highlighted by this Court in ***All India Institute of Medical Sciences Employees' Union (Regd.) v. Union of India [(1996) 11 SCC 582: 1997 SCC (Cri) 303***].

19. In the present case, the learned Trial Court had already ordered further investigation, but the Investigating Officer maintained his earlier stand. Therefore, the only option available

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS

2026:HHC:31279

with the learned Trial Court was to treat the protest petition as a complaint, which it had failed to do. Therefore, the learned Revisional Court was justified in directing the learned Trial Court to treat the complaint as a protest petition, and there is no infirmity in the order passed by the learned Revisional Court.

20. In view of the above, the present petition fails and is dismissed.

21. The present petition stands disposed of, and so are the pending miscellaneous application(s), if any.

22. The record of the learned Courts below be returned with a copy of the judgment.

(Rakesh Kainthla)
Judge

29th July, 2026
(Nikita)

High Court of H.P.

::: Downloaded on - 30/07/2026 08:16:43 :::CIS