



CNR: KAHC010017222024

NC: 2026:KHC:48826
CRL.P No. 516 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 516 OF 2024

BETWEEN:

ABDUL AZEEZ
AGED ABOUT 35 YEARS,
S/O MOYIDDIN
R/O MASJID COMPLEX,
MAHAVEERA ROAD,
KALASA, KALASA TALUK
CHIKKAMGALURU DISTRICT -577 124

...PETITIONER

(BY SRI. CHIDAMBARA G.S, ADVOCATE)

AND:

MOHAMMAD ESAK
AGED ABOUT 59 YEARS,
S/O KASIM SAHEB
R/O KALASA KELABYLU
KALASA POST, KALASA TALUK
CHIKKAMAGALURU DISTRICT -577 124

...RESPONDENT

(BY SRI. PRASIDDARAJ, ADVOCATE)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 21.11.2023 PASSED BY THE III ADDITIONAL CIVIL JUDGE AND J.M.F.C., AT CHIKKAMAGALURU IN C.C.NO.94/2020 ON THE APPLICATION FILED BY THE PETITIONER U/S 45 OF THE INDIAN EVIDENCE ACT AND ALLOW THE SAID APPLICATION BY GRANTING THE RELIEFS PRAYED FOR THEREIN.

Digitally
signed by
PANKAJA S
Location:
HIGH
COURT OF
KARNATAKA



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THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of Cr.P.C. to set aside the order dated 21.11.2023 passed on the application filed under Section 45 of Indian Evidence Act in C.C.No.94/2020 to refer Ex.P1 - cheque to hand writing expert to note the difference between signature and writings in the said cheque.

2. The brief facts of the case are, the accused had availed financial assistance from the complainant to the tune of Rs.15,00,000/- on 02.11.2017. For repayment of the same, the accused issued a Cheque bearing No.626343 drawn on Syndicate Bank, Kalasa Branch, dated 23.09.2019 for a sum of Rs.15,00,000/-. When the complainant presented the said cheque for encashment through his Banker, the same was returned with an endorsement 'Funds Insufficient' dated 24.09.2019. Subsequently, the complainant intimated the same to the accused, however, the accused failed to repay the



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amount. As such, the complainant issued legal notice dated 03.10.2019 to the accused. The said notice was duly served to the accused. Despite, the accused neither replied to the notice nor repaid the said amount. Hence, the complainant filed a private complaint under Section 200 of Cr.P.C against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as "the N.I. Act").

3. In the said proceedings, after cross-examination of PW.1, the accused filed an application under Section 45 of the Indian Evidence Act to send Ex.P1-cheque to the handwriting expert to note the difference between signature and writings in the said cheque. The said application was opposed by the learned counsel for the complainant. The Trial Court dismissed the said application vide order dated 21.11.2023. Challenge to the same is *lis* before this Court.

4. Heard the learned counsel for the respective parties.



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5. The primary contention of the learned counsel for the petitioner/accused is that though the cheque belongs to the accused, the complainant filled the amount and presented the same for unlawful gain. Admittedly, the signature of the accused and the writing of other particulars in Ex.P1 differs. As such, he submits that in order to ascertain the same, it is necessary to send Ex.P1-cheque to the handwriting expert. The Trial Court, without considering the defence of the accused, rejected the application. Accordingly, he prays to allow the petition and the application. In order to buttress his arguments, he relied on the judgment of the Hon'ble Supreme Court in the case of **STATE (DELHI ADMINISTRATIVE) vs. PALI RAM - AIR 1979 SC 14.**

6. *Per contra*, learned counsel for the respondent submits that admittedly in the cross-examination of the accused, he admitted his signature on Ex.P1. He further submits that as per Section 20 of the N.I. Act, where one person signs and delivers to another person any negotiable instruments, he prima facie gives authority to the holder of the cheque to make or complete, as the case may be, upon it a



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negotiable instrument, for any amount specified therein. Thus, the contention of the petitioner that the complainant has filled the cheque with an exorbitant amount is a matter of trial and hence, the Trial Court has rightly rejected the application. Accordingly, he prays to dismiss the petition.

7. I have given my anxious consideration to the submissions of learned counsel for both the parties and perused the documents made available on record.

8. Before delving into the merits of the case, it is appropriate to refer Section 20 of the N.I. Act, which reads as under:

"20. Inchoate stamped instruments.—

Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount; provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in



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excess of the amount intended by him to be paid thereunder."

9. On careful reading of the above provision, it is clear that the holder of the cheque is authorized to fill the instrument if the same is handed over to him after signing. In the present case, the petitioner has admitted his signature on the cheque. The prayer of the petitioner to send Ex.P1 for handwriting expert is only in respect of the other contents of the cheque. As rightly contended by the learned counsel for the respondent, such a defence can be raised by the petitioner during the course of proceedings by cross examining or by leading defence evidence. In my considered view, this aspect of the matter has rightly been dealt with by the Trial Court and has thus rightly rejected the application filed by the petitioner. I find no good ground to interfere with the impugned order. The petition therefore lacks merit and is accordingly ***dismissed***.

**SD/-
(RAJESH RAI K)
JUDGE**

HKV/List No.: 1 SI No.: 41