



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

CRIMINAL PETITION NO. 8223 OF 2019

BETWEEN:

SMT SHANTI SURESH
W/O SURESH,
AGED ABOUT 43 YEARS,
R/O NO.2, 6TH MAIN, IST PHASE,
BINNY LAYOUT, VIJAYANAGAR,
BANGALORE - 560 040

...PETITIONER

(BY SRI. B.T. VENKATESH, ADVOCATE)

AND:

M. SURENDRA
S/O LATE MALLAIAH,
AGED ABOUT 50 YEARS,
R/O NO.140/5, 2ND FLOOR,
69TH CROSS, 5TH BLOCK,
RAJAJINAGAR,
BANGALORE - 560 010

...RESPONDENT

(BY SRI. VIJAYKUMAR PRAKASH, ADVOCATE)

THIS CRL.P IS FILED U/S.482 OF CR.P.C BY THE
ADVOCATE FOR THE PETITIONERS PRAYING THAT THIS
HONOURABLE COURT MAY BE PLEASED TO (a) SET ASIDE THE
ORDER OF LEARNED XIII ADDITIONAL CHIEF METROPOLITAN



MAGISTRATE DATED 25.09.2017 IN C.C.NO.125/2015 AND ALLOW THE MEMO FILED BY THE PETITIONER DATED 07.06.2017 AND ETC.

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

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 25.09.2017 passed by XIII Additional Chief Metropolitan Magistrate, Bengaluru, in C.C.No.125/2015 and order dated 21.09.2019 passed by LXII Additional City Civil and Sessions Judge, Bengaluru, in Crl.RP.No.806/2017 and consequently, to allow memo dated 07.06.2017 filed by petitioner herein, this petition is filed.

2. Sri B.T.Venkatesh, learned counsel for petitioner submitted that petitioner was accused in C.C.No.125/2015 filed by respondent (complainant) for offence punishable under Section 138 of Negotiable Instruments Act, 1881 (for short 'N.I. Act'). It was



submitted that in said proceedings, accused had filed an application under Section 45 of Indian Evidence Act read with Sections 243 and 293 of Cr.P.C., for forensic examination of writings on cheque and to verify whether there was difference of ink in writing on cheque and signature, as well as age of writings and whether signature on cheque at Ex.P.1(a) was that of S.Shanti Suresh, accused herein.

3. On 28.12.2016, learned Magistrate was pleased to allow application. Thereafter, cheque was sent for Central Forensic Science Laboratory, Hyderabad. However, on 04.05.2017 as per Annexure-F, a reply was received from Director of lab stating that there was no universally approved forensically validated standard method available for determining age of handwriting/ink, instrument used for differentiating ink on two writings was not in working condition and for testing handwriting, further specimen handwriting was required. It was submitted that since application was allowed and to give effect to order,



petitioner filed a memo on 07.06.2017 for taking handwriting samples and for forwarding same to laboratory.

4. On said memo, learned Magistrate passed impugned order on 25.09.2017 rejecting memo. It was submitted when application for referring cheque for testing by Forensic Science Laboratory (FSL) was allowed, rejection of memo would amount to review of order allowing application. Therefore, petitioner assailed said order in a Crl.RP.No.806/2017 under Section 397 of Cr.P.C. However, learned Sessions Judge vide Order dated 21.09.2019 as per Annexure-B, rejected petition with all but one reason that order impugned in revision was an interlocutory order and not revisable. Assailing same, this petition was filed.

5. It was submitted refusal to allow memo after a right having accrued to accused to have writings on cheque tested by expert would not be justified.



6. Further such an order could not be treated as interlocutory and rejection of revision petition by learned Sessions Judge was not justified.

7. In light of above facts and circumstances, it was submitted not only to secure ends of justice, but also to prevent abuse of process, learned counsel sought for allowing petition.

8. On other hand, Sri Vijaykumar Prakash, learned counsel for complainant opposed petition. At outset, it was fairly submitted that indeed trial Court had allowed application filed by petitioner/accused for referring writings on cheque for testing by FSL. There was also no dispute about intimation received from FSL about inability to carry out tests to differentiate ink colour due to machine being under repair and inability to carry out tests for determining age of ink of writing on cheque and signature for want of universally accepted standard method for testing. It was submitted that only remaining



part would be to verify whether signature on cheque was that of accused, which by very nature of defence setup that cheque was issued to complainant's wife in a chit transaction would amount to admission and therefore, testing would not be necessary.

9. It was submitted learned Magistrate at time of hearing on memo, had rightly applied mind to facts and circumstances of case and rejected memo. It was submitted that order passed on application as well as on memo being purely interlocutory, order passed by learned Sessions Judge would be unexceptionable and therefore, sought for dismissal of it.

10. Heard learned Counsel and perused material on record.

11. This petition is by accused challenging order passed by Magistrate on a memo filed by accused and dismissal of revision petition against order passed on memo.



12. As noted above, pendency of proceedings for offence punishable under Section 138 of N.I. Act on a complaint filed by respondent/complainant against accused is not in dispute. It is also not in dispute that when matter was posted for arguments, an application was filed by petitioner/accused for referring cheque for testing by FSL. Indeed said application is allowed and cheque was referred to FSL. Subsequently, it appears that, FSL sent a reply to Court expressing its inability to test age of writing on cheque as well as signature for want of universally acceptable standard procedure/test. It also expressed inability to test differentiation in ink on account of specific machine used for same being under repair. FSL also stated that to carry out test for determining whether handwriting and signature on cheque was that of accused or otherwise, some more sample handwriting was required.

13. In light of same, accused herein had filed a memo undertaking to offer sample handwriting. While



considering memo, learned Magistrate took note of intimation by FSL about its inability to carry out two of three tests it was required. Consequently, only remaining test it could carry out was to examine whether handwriting and signature on cheque was that of accused. Taking note of defence of accused, wherein accused admitted to have executed cheque, but issued it to wife of complainant towards a different transaction than claimed by complainant, would mean an admission of signature, compliance with request of FSL would be futile and therefore, proceeded to pass order impugned rejecting memo.

14. Revision against said order came to be dismissed on sole ground that revision would not be maintainable against an interlocutory order. Contentions of petitioner are two fold. One is about rejection of memo amounting to review or recall of order on application for reference to FSL and secondly, dismissal of revision by viewing said order as being purely interlocutory in nature.



In absence of specific provision empowering Magistrate Court for review or recall, though there would be sufficient justification in contention of counsel for petitioner that rejection of memo amounting to review or recall of order on application, however, it may not be so in facts and circumstances of this case, likewise, in case of order passed by the learned Sessions Judge.

15. In view of intimation by FSL, purpose of allowing application had changed substantially. Only possible test namely, to determine whether signature and writing on cheque were that of accused would be rendered unnecessary in view of defence taken by accused as noted above.

16. In light of specific facts and circumstances, order though may transgress powers of Magisterial Court, however, would not warrant interference as it is seen that order passed by learned Magistrate would be just to



secure ends of justice, especially as same would expedite disposal of main matter.

17. In view of above, petition stands ***dismissed*** by clarifying that this Court has not either examined or rendered any opinion as to contention of accused with regard to signature and writing on cheque.

Parties would be at liberty to address their respective contentions before learned Magistrate and learned Magistrate would be at liberty to arrive at any conclusion. Instead of holding order passed as contravening law, order passed by learned Magistrate shall be treated as a order passed by this Court.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

PSJ
List No.: 1 Sl No.: 29