

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.676 of 2015

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ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/accused in C.C.No.14 of 2011 on the file of the II Addl. Judicial Magistrate of First Class, Tanuku which is outcome of a private complaint of 2nd respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, (for the short, 'the Act') praying to quash the order dated 02.01.2014 in CrI.M.P.No.362 of 2014 in the said case.

2. Heard the learned counsel for the petitioner/Accused so also the learned Public Prosecutor representing State-1st respondent before admission and notice sent to the 2nd respondent/complainant returned left and unclaimed even intimated after enquiry for 7 days and a memo filed about notice issued to advocate of the 2nd respondent-complainant before trial Court to show it is in the knowledge of the complainant by virtue of her appearance, hence taken as heard and perused the material on record.

3. Undisputedly, from the impugned order of the learned Magistrate in CrI.M.P.No.362 of 2014 dated 02.01.2014 para-6, there was earlier order of the Court to send the disputed signatures on the cheque with specimen signatures and admitted signatures to Expert for comparison and when the same sent to the Expert, the same were returned by the Expert with a request to send the documents relating to the year 2010 and it is to send for the cheques earlier issued by the accused of the relevant period which are with the Axis Bank, S.R.Nagar, Hyderabad, to be called for so to send to the Expert for the purpose of comparison as sought for by Expert. The impugned order of the learned Magistrate speaks as it is duty of the petitioner/accused to send the documents to the Expert but not the duty of the Court even though the petition filed for summoning in discharge of his

duty for the Court so to allow though it is not under Section 91 of Cr.P.C. at least under Section 254(2) of Cr.P.C. from the specific provision during the trial.

4. Accordingly, the Criminal Petition is disposed of directing the trial Court to issue summons to the Manager, Axis Bank, S.R.Nagar, Hyderabad, to produce the cheque bearing No.160058,dt.08.02.2010 which relating to account No.289010100153959 of the petitioner/accused for sending the same to the Expert i.e. A.P. Forensic Science Laboratories, Red Hills, Hyderabad, for comparison and giving opinion. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Date: 27.07.2015
Vvr

Dr. B.SIVA SANKARA RAO J,