

THE HONOURABLE Dr.JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.3280 of 2015

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/Accused to set aside the orders dated 20.03.2015 in CrI.M.P.No.207 of 2015 in C.C.No.56 of 2014 on the file of the II Special Magistrate Court, at Rajendranagar, Ranga Reddy district (initially C.C.No.1051 of 2013 on the file of VIII Metropolitan Magistrate Court, Rajendranagar).

2. Heard the learned counsel for the petitioner/Accused so also the learned Public Prosecutor representing 1st respondent-State before admission and before notice to the 2nd respondent and perused the material on record.

3. On perusal of the order no doubt clearly shows that it is one of the contentions of the accused in the cheque bouncing case that so called endorsement of the banks of "funds insufficient" is without adverting to signature is that of the accused in favour of the so called payee or not and that the signature on the cheque is not tallying and the contest is not that of him with the specimen signature available with the bank for its comparison before giving any endorsement and thereby the bank manager is received summons originally available to depose with reference to it for the Court to compare. Undisputedly that petition was allowed and once bank Manager present and for no details in the summons the purpose much less in asking to bring the specimen signatures of the account opening form for comparison with the disputed signatures on the cheque, he could not bring any material again fresh summons issued and the concession was not availed thereby the learned Magistrate found in the impugned order no summons to permit further to again call the bank Manager by summoning much less to produce record. The submission by the learned counsel for the petitioner that on that day the bank manager did not bring the specimen signatures the order is not adverting to it much less in the impugned petition there is a specific plea

taken by the petitioner for the inadvertence of the learned counsel. The learned counsel for the respondent/complainant stated that the order of the lower Court holds good and there are no grounds within the limited scope of this Court to sit against, much less to interfere with the reasoned order.

4. In fact, perusal of the impugned order shows the purpose is considered to be material to summon the bank manger to produce the specimen signatures to prove that the disputed signature on the cheque whether tallies or not, the Court can take up either under Section 73 of the Indian Evidence Act or to send the same to the Expert if necessary under Section 45 of the Indian Evidence Act. However, that arises only after production of the specimen signature of the account opening form available with the bank. Once such is the genuine purpose and present petition is filed for that purpose and it is said that even second time on 13.12.2014 the specimen signature not brought and thereby could not be examined and though that is not specifically borne either in pleadings or the order, the purpose since genuine and material to the just decision of the case under second part of Section 311 of Cr.P.C., this Court is inclined to allow the petition.

5. Accordingly, Criminal Petition is allowed directing the trial Court to permit the petitioner subject to deposit of Rs.3,000/- by the petitioner/accused towards costs to the complainant to summon the bank manager afresh to bring the specimen signature of the account opening form and other signatures of the accused having with the bank for comparison by the Court by itself or through Expert opinion, as the case may be, under Section 73 of the Indian Evidence Act.

6. Consequently, miscellaneous petitions, if any, pending in this Criminal Petition shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date: 29.07.2015

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