

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1901 of 2015

ORDER:

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1. This Criminal Revision Case is filed by the petitioner-accused aggrieved by the order dated 20.7.2015 passed in CrI.M.P.No.704 of 2015 in C.C.No.154 of 2012 by the Judicial Magistrate of First Class, Srungavarapu Kota, Vizianagaram District.

2. The petitioner-accused is facing trial in the above C.C. for the offence under Section 138 of the Negotiable Instruments Act. He filed the above CrI.M.P. under Section 45 of the Indian Evidence Act seeking to send Ex.P1 Cheque to the Government Hand Writing Expert, Hyderabad for comparison of handwriting of the contents written on Ex.P1 with the handwriting of the petitioner. The learned trial Judge dismissed the above CrI.M.P. vide order impugned herein on the ground that the petitioner filed the application at a belated stage. Aggrieved by the same, the petitioner-accused filed this revision.

3. Heard and perused the material available on record.

4. It is the case of the petitioner-accused that the contents in the cheque in question were not filled up by him. The material on record clearly goes to show that the petitioner-accused is not disputing his signature on the cheque in question. There is no law which prescribes that in case of any negotiable instrument, the entire body of the instrument shall be written only by the maker or drawer of the instrument. Once the execution is admitted, it shall be taken that the cheque was issued by the accused in favour of the complainant, even in a case where the cheque was filled up by some other person. Even if it is assumed that the contents in the cheque in question were filled up by some other person, it will not have any effect insofar as the offence under Section 138 of the Negotiable Instruments Act is concerned. As rightly observed by the trial Court, it appears that the present petition was filed by the petitioner at the stage of arguments only to procrastinate the proceedings. Therefore,

this Court is not inclined to interfere with the order under revision. The revision case is liable to be dismissed.

5. Accordingly, the Criminal Revision Case is dismissed. Consequently, the miscellaneous petitions pending, if any, shall stand dismissed.

JUSTICE RAJA ELANGO

Dated: 18th November, 2015

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