

**HON'BLE SRI JUSTICE RAJA ELANGO**

**Criminal Revision Case No.1714 of 2014**

**ORDER:**

This revision is preferred challenging the order dated 30-06-2014 passed by the Judge, Family Court-cum-IX Additional District and Sessions Judge, East Godavari District at Rajahmundry in CrI.M.P. No.152 of 2014 in C.A. No.229 of 2012, wherein the learned Sessions Judge dismissed the petition filed by the petitioner invoking the provisions under Section 391 of Cr.P.C.

The brief facts of the case are as follows :

The petitioner-accused was convicted for an offence under Section 138 of Negotiable Instruments Act by the trial Court and against which he preferred an appeal before the lower appellate Court. During pendency of the appeal, the petitioner preferred an application invoking the provisions under Section 391 of Cr.P.C. to mark two documents, - (i) Original Election Commission of India Identity Card, dated 23-11-2008 to substantiate that he resides in a particular place and (ii) certified copy of the Insolvency Petition filed by the petitioner herein. The learned lower appellate Judge, after elaborately discussing all the aspects of the case and also the documents, dismissed the application.

The grievance of the petitioner herein is that the marking of the said documents will improve his case and also prove his innocence.

After hearing the arguments of the learned counsel for the petitioner and the learned Public Prosecutor, this Court is of the view that as far as marking of the certified copy of the Insolvency Petition is concerned, it is no way relevant to decide the issue in appeal and also to satisfy that the petitioner has not committed an offence under Section 138 of the Negotiable Instruments Act. As far as the marking

of the voter Identity Card to prove his residential address is concerned, it is argued by the learned counsel for the petitioner that the trial Judge proceeded to convict the accused on the ground of notice sent was returned as unclaimed. It is further contended by the learned counsel for the petitioner that since it is returned as not claimed, the learned Magistrate decided the issue against the petitioner that the petitioner has refused to receive the notice. As far as the said aspect of marking the Voter Identity Card is concerned, the lower Appellate Judge is directed to consider the said aspect and allow the petitioner herein to produce the Voter Identity Card before the lower appellate Court after issuing notice to the complainant.

With regard to Voter Identity Card is concerned, it is always subject to scrutiny of the appellate Court and also the appellate court can decide the issue whether the Voter Identity Card produced before the appellate Court is pertaining to the relevant period and other things.

Accordingly, the Criminal Revision Case is disposed of. Consequently, the Miscellaneous Petitions pending, if any, in this revision shall stand closed.

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RAJA ELANGO, J.

05<sup>th</sup> June, 2015

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