

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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CRIMINAL REVISION CASE No.2195 of 2014

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ORDER :

The present Criminal Revision Case is filed under Sections 397 and 401 of the Code of Criminal Procedure (Cr.P.C.), aggrieved by the order, dated 23.09.2014 passed in CrI.M.P. No.21 of 2014 in C.C. No.47 of 2012 on the file of the Principal Junior Civil Judge, Kavali, wherein an application filed under Section 45 of Indian Evidence Act, for sending a document i.e., Ex.P1—cheque to the hand writing expert, was rejected.

The facts in issue are as under:

The respondent herein filed a private complaint against the petitioner/ accused for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. After completion of complainant's evidence and when the case was posted for defence evidence, the petitioner herein filed an application under Section 45 of Indian Evidence Act for sending Ex.P1—cheque to the hand writing expert alleging that the number '7' is inserted before the number '5' with a different ink. The learned trial Judge dismissed the said application. Aggrieved by the same, the present revision came to be filed.

Heard learned counsel for the petitioner and learned public prosecutor appearing for State.

A perusal of the averments in the petition filed in support of the CrI.M.P. No.21 of 2014, for sending the cheque to hand writing expert, would show that the petitioner only disputed the insertion of number '7' before number '5'. The petition does not refer to any

alterations if any found on the cheque.

Counsel for respondent opposed the same.

As stated earlier, the main grievance of the petitioner appears to be with regard to insertion of number '7' before number '5', and as such pleads for sending the said instrument to an expert. But a close perusal of the cheque in question would show that no such alteration was found where the amount was mentioned in words. Apart from that the record reveals that on 23.11.2013 the petitioner executed a compromise letter agreeing to repay an amount of Rs.1,80,000/- to the complainant. Having acknowledged the alleged debt by way of executing compromise letter with his own hand writing, the argument of the learned counsel for the respondent that only with a view to avoid the said payment, the petitioner filed the present petition under Section 45 of the Evidence Act cannot be brushed aside. Hence, I am not inclined to accept the request of the petitioner.

Accordingly, the Criminal Revision Case is dismissed.

Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

27.04.2015
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