

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL PETITION No.4738 OF 2016

ORDER:

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This criminal petition is filed by the petitioner-accused under Section 482 Cr.P.C., seeking to quash the order, dated 12.02.2016, in Crl.R.P. No.107 of 2015 passed by the Principal Sessions Judge, West Godavari District, whereby the learned Sessions Judge confirmed the order, dated 10.09.2015, in CRI.M.P.No.7072 of 2015 in CC No.246 of 2014, passed by the Judicial Magistrate of First Class, Special Mobile Court, Eluru.

Heard and perused the material available on record.

The 2nd respondent – de facto complainant filed a private complaint against the petitioner-accused for the offence punishable under Section 138 of the Negotiable Instruments Act, alleging that the petitioner borrowed an amount of Rs.3,00,000/- from him by executing a promissory note. When the de facto complainant asked for repayment of the said amount, the petitioner issued a cheque for a sum of Rs.80,000/- and promised to repay the balance amount within a short period. The said cheque was dishonoured when the de facto complainant deposited the same in the Bank. Hence, he filed the present complaint. The case is pending before the trial Court for the defence side further evidence. At this stage, the petitioner filed Crl.M.P. No.7072 of 2015 to send the cheque (Ex.P.2) to the handwriting expert, along with his admitted signatures for comparison. The trial Court dismissed the said application by observing that the said application was not maintainable since it was filed at a belated stage without availing the earliest opportunity, by applying the principle laid down in

the decision of this Court in **2014(1) ALS (CrI.) 987 AP**. Aggrieved over the same, the petitioner filed CrI.R.P. No.107 of 2015 before the I-Additional Sessions Judge, Eluru. The learned Sessions Judge dismissed the revision petition vide order, dated 12.02.2015, by confirming the order passed by the trial Court. Challenging the same, the present criminal petition is filed.

Learned counsel for the petitioner submitted that the petitioner filed the impugned application seeking to send the cheque, alleged to have been issued by him, to the handwriting expert since he is disputing the signature on the said cheque and that due to some financial disputes between him and the junior paternal uncle of the 2nd respondent, he was falsely implicated in the present case, but the Courts below without considering the same, dismissed the applications filed by the petitioner.

After perusing the orders passed by the Courts below, this Court is of the view that the learned Magistrate has rightly exercised his discretion vested in him and the reasons assigned by the learned Magistrate are just and reasonable; and the same are also confirmed by the revisional Court. The orders under challenge do not suffer from any serious infirmity warranting interference of this Court and therefore, the criminal petition is liable to be dismissed.

Accordingly, the criminal petition is dismissed. Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

April 06, 2016.
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