

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.3224 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. challenging the order dated 05-02-2016 in CrI.M.P.No.3519 of 2015 in S.T.C.No.169 of 2013 passed by the IV Additional Judicial Magistrate of First Class, Tirupathi, dismissing the petition filed under Section 45 of the Indian Evidence Act for sending Ex.P.1- cheque for comparison with the admitted signatures to the Handwriting Expert.

The second respondent herein is the complainant, who filed the complaint for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 against the petitioner/accused for dishonour of the cheque issued towards legally enforceable debt. After completion of the complainant's evidence, the petitioner/ accused was examined under Section 313 Cr.P.C. and when the matter was coming up for defence evidence, the petitioner/accused filed CrI.M.P.No.3519 of 2015 in S.T.C.No.169 of 2013 under Section 45 of the Evidence Act seeking to send Ex.P.1 cheque to the handwriting expert for opinion after comparison of the signature and handwritings of Ex.P.1 with the admitted signatures of the petitioner/ accused. The trial Court, on considering the contention of the petitioner/accused and the material on record, dismissed the said petition, holding that the plea raised by the petitioner/accused was an afterthought at the belated stage of the proceedings in order to drag on the proceedings without adducing his defence evidence. Aggrieved by the same, the present criminal petition is filed.

Heard the learned counsel for the petitioner and perused the

material on record.

The fact remains that after completion of complainant's evidence, the accused was examined under Section 313 Cr.P.C. and when the matter was coming for defence evidence, the instant petition is filed for sending Ex.P.1 cheque to the handwriting expert for opinion with regard to forgery of the signature of the petitioner/accused on Ex.P.1 cheque. It is the specific case of the petitioner/accused that the signature on Ex.P.1 does not belong to him and the same is rank forged one and the date, year, amount and payment were never written by the petitioner/accused on Ex.P.1 cheque and the same are created and fabricated by the complainant to get wrongful gain. On the other hand, the 2nd respondent/complainant stated that no such issues were raised by the petitioner/accused either by way of reply or put any suggestions to PW.1 during the cross-examination or not even stated during the examination 313 Cr.P.C.

I have given my earnest consideration to the submissions of the learned counsel for the parties. On perusal of the material on record, it seems that the learned Magistrate has rightly dismissed the petition, holding that the plea raised by the petitioner/accused that his signature on Ex.P.1 cheque does not belong to him and the same being rank forged one was an afterthought at the belated stage of proceedings only to drag on proceedings without adducing any defence evidence. It appears that the petitioner/accused never raised any such plea either by way of issuing reply or put any suggestions to PW.1 at the time of cross-examination or not even stated during the examination under Section 313 Cr.P.C. In the absence of any specific plea, the question of sending Ex.P.1 cheque to handwriting expert for comparison with the admitted

signatures at the belated stage of the proceedings would not arise. The findings given by the learned Magistrate in dismissing the petition are but just and reasonable in the facts and circumstances of the case and the order impugned does not suffer from any serious infirmity or illegality warranting interference of this Court in exercise of jurisdiction under Section 482 Cr.P.C., and hence, the criminal petition is liable to be dismissed.

Accordingly, the Criminal Petition is dismissed. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

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RAJA ELANGO, J

Date: 14-03-2016

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