

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1453 of 2015

ORDER:

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This Criminal Revision Case is filed by the petitioner-accused aggrieved by the order dated 08.06.2015 passed in CrI.M.P.No.1652 of 2014 in C.C. No.750 of 2013 on the file of XIX Special Magistrate, Hyderabad whereby the learned Magistrate dismissed the application filed by the petitioner-accused under Section 91 Cr.P.C. to furnish the copies of the promissory notes and to call for the original promissory notes dated 22.8.2010 from the complainant to send the same for an expert opinion.

The brief facts of the case are that the petitioner herein is facing trial for an offence under Section 138 of Negotiable Instruments Act. During the course of chief-examination, the complainant-second respondent herein submitted before the Court that the petitioner herein executed a promissory note in his favour but, however, he failed to produce the same before the trial Court. The petitioner herein filed the application to produce the said promissory note before the Court and the said application is dismissed by the trial Court through the impugned order holding that no promissory notes were filed by the complainant in the main case.

Heard and perused the material available on record.

If it is the claim of the complainant-second respondent herein that the petitioner-accused has executed a promissory note in his favour, it is for him to produce the said promissory note before the Court to substantiate his case. If he fails to produce the said promissory note before the trial Court, a presumption will be drawn against the complainant-second respondent herein to the effect that

the petitioner herein has not executed any promissory note as claimed by the complainant. Furthermore in the proceedings under Section 138 of Negotiable Instruments Act, it is not mandatory that the promissory note shall also be marked as an exhibit. Hence, the impugned order passed by the trial Court does not suffer from any infirmities warranting interference by this Court.

Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

27th January, 2016

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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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CRIMINAL REVISION CASE No.2110 of 2015

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