THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL REVISION CASE No.2629 of 2013

ORDER:

1 Assailing the order dated 31.10.2013 passed in Crl.M.P.No.789 of 2013 in C.C.No.445 of 2007 on the file of the Court of the Judicial Magistrate of I Class, Khammam wherein and whereby the trial Court dismissed the petition filed by the Revision Petitioner under Section 254 (1) (2) Cr.P.C, the petitioner/accused filed the present Criminal Revision Case under Section 397 and 401 Cr.P.C.

2 The contention of the learned counsel for the petitioner is that the learned Magistrate committed grave error while dismissing the petition. He further submitted that the impugned order is not legally sustainable.

3 *Per* contra, the learned counsel for the second respondent contended that there are no grounds much less valid grounds to interfere with the impugned order.

4 The second respondent filed his counter inter *alia* contending that the petitioner filed the petition with an ulterior motive to drag on the proceedings.

5 The trial Court, after hearing both sides and having perused the entire material available on record, dismissed the petition. Hence the present Criminal Revision Case.

6 The petitioner is facing trial before the trial Court in C.C.No.445 of 2007 for the offence punishable under Section 138 of Negotiable Instruments Act. Before the trial Court when the matter was coming up for arguments, the petitioner filed the petition under Section 254 (1) (2) Cr.P.C. to summon **1)** Daily Cash Book maintained by the second respondent for the years 2004-05, **2)** Income Tax returns of the second respondent for the years 2003-04, 2004-05 and 2005-06 and **3)** Bank Account Transaction Sheet pertaining to the period February 2004 to April 2004. I have carefully perused the material available on record,

including the deposition of the petitioner, in order to appreciate the contention of the learned counsel for the petitioner. It is not the case of the petitioner that Ex.P.1 does not bear his signature. A perusal of the record reveals that the petitioner filed similar type of petition to call for the income tax returns of the second respondent for the year 2005-06 and the same was dismissed. For one reason or the other, the petitioner did not choose to challenge the orders passed by the trial Court by way of filing revision. Therefore, the order passed by the trial Court was binding on the petitioner so far as the income tax returns of the second respondent for the year 2005-06 is concerned. Again the petitioner filed the present petition for production of the documents mentioned above. If really the petitioner intends to rely on the above documents, what prevented him to file a similar type of petition at the earliest point of time, more particularly, before commencement of trial?

7 The possibility of filing this type of petition with an ulterior motive to drag on the proceedings cannot be ruled out. At the time of arguments, the learned counsel for the second respondent submitted that the second respondent filed O.S.No.8 of 2007 on the file of the Family Court – cum – Additional Sessions Court, Khammam against the petitioner for recovery of money basing on the promissory note dated 31.03.2004 and the same was decreed. The plea of the petitioner is that the cheque was issued as a collateral purpose. But the factum of issuance of cheque is not being disputed by the petitioner. The decree and judgment passed by the Family Court – cum – Additional Sessions Court, Khammam also support the version of the second respondent.

8 The trial Court has considered the material available on record in right perspective and dismissed the petition. While exercising jurisdiction under Sections 397 and 401 Cr.P.C., this Court shall not lightly interfere with the orders passed by the trial Court. In the instant case, the trial Court has assigned cogent and valid reasons to its findings. I am in complete agreement with the findings of the trial Court.

There is no illegality or irregularity in the orders passed by the trial Court, warranting interference of this Court.

9 For the foregoing discussion, this Criminal Revision Case lacks merits and accordingly the same is dismissed. As a sequel to the dismissal of the Criminal Revision Case, miscellaneous petitions, if any, pending in this Criminal Revision Case shall also stand dismissed.

T. SUNIL CHOWDARY, J

Date: 21.03.2016
Kvsn