

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1194 of 2012

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ORDER:

The above Criminal Revision Case is filed by the petitioner - accused against the order, dated 23.06.2012, passed in CrI.M.P. No.3227 of 2012 in C.C. No.188 of 2010 by the Special Judicial Magistrate for Prohibition and Excise, Guntur.

The petitioner is facing trial in the above CC for an offence punishable under Section 138 of the Negotiable instruments Act. It is the case of the petitioner that there are some financial disputes between her husband and one M.Rama Rao. The 2nd respondent herein is a friend of said M. Rama Rao. The husband of the petitioner gave three blank signed cheques and three promissory notes, signed by the petitioner, to said Rama Rao. At the time of settlement before the elders on 03.03.2008, the husband of the petitioner paid Rs.13,00,000/- to said Rama Rao and said Rama Rao returned two cheques and two promissory notes to the husband of the petitioner and kept one cheque and one promissory with him. When they asked about the said cheque and promissory note, he executed and promissory note as a security to return the cheque not returned by him to the petitioner's husband. Thereafter, the 2nd respondent filed the present complaint against the petitioner alleging that she borrowed a sum of Rs.13,00,000/- from him and gave a blank signed cheque and a promissory note. The petitioner filed an application under Section 45 of the Evidence Act before the Court below to send Exs.P1, P2 and Exs.D1 to D3 and D5 and also the vakalat filed by said M. Rama Rao in CC No.149 of 2010, to the Expert to ascertain the age of ink to establish the fact that Exs.P1 and P2 and Exs.D1 to D3 and D5 were made on the same day in the year 2004. The learned counsel for the 2nd respondent opposed the said application. The trial Court by

observing that said Mundru Rama Rao is not at all a party to the present case and that it is not the case of the petitioner that Exs.P1 and P2 are in the handwriting of said Rama Rao and that the plea raised by the petitioner that Exs.P1 and P2 and Exs.D1 to D3 and D5 were made on the same day, was not raised by her at the time of cross-examination of PW.1 or in her chief examination as DW.1 or in the chief examination of her husband as DW.2, dismissed the said application. Aggrieved by the same, the present revision case is filed.

Heard and perused the material available on record.

A perusal of the record discloses that the petitioner has not examined said Rama Rao as witness before the Court. Without examining said Rama Rao as a witness to prove that the cheque in question was given to him by her husband, the question of sending the documents for comparison of his admitted signatures, is of no use. Further, it is argued by the learned counsel for the petitioner that said Rama Rao may not come to the Court and he may not depose in favour of the petitioner. On such presumptions, the petitioner cannot seek remedy of sending the documents for ascertaining the age of ink by comparing with the admitted signatures of said Rama Rao.

Hence, the order passed by the trial Court is in accordance with law and there is nothing to interfere with the said order. However, it is left open to the petitioner if she so desirous to summon said Mundru Rama Rao to give evidence as a defence witness to substantiate the fact that the said cheque was given by her husband to M. Rama Rao and he has not returned the said cheque, she can file an application before the Court below and the Court below shall consider the same in accordance with law.

With the above observations, the Criminal Revision Case is disposed of. Miscellaneous petitions, pending if any, shall stand closed.

July 19, 2016.
KTL

RAJA ELANGO, J