

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE Nos.3332 & 3335 of 2015

COMMON ORDER:

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1. Since both the revisions arise out of one and the same common order, they are being heard together and disposed of by this common order.

2. The above Criminal Revision Cases are filed by the petitioner-complainant aggrieved by the common order dated 20.11.2015 passed in CrI.M.P.Nos.232 and 233 of 2015 in C.C.No.59 of 2009 respectively by the Principal Judicial Magistrate of First Class at Mahabubabad.

3. The petitioner-complainant filed a private complaint against the 1st respondent-accused for the offence punishable under Section 138 of the Negotiable Instruments Act. When the matter was at the stage of examination of the accused under Section 313 Cr.P.C., the above C.C. was reopened for further cross-examination of P.W.1. P.W.1 was cross-examined. Subsequent thereto, the petitioner-complainant filed the above CrI.M.Ps seeking to reopen the case and recall P.W.1 for the purpose of marking an agreement dated 2.8.2008, on the ground that an agreement was executed by the 1st respondent and it is very essential to establish the case of the complainant.

4. The trial Court dismissed the above two applications. Aggrieved by the same, the petitioner-complainant filed the present revisions.

5. Heard and perused the material available on record.

6. It is the case of the petitioner that the proposed document was executed by the 1st respondent admitting his liability to pay an amount of Rs.8,00,000/- and the same was misplaced and therefore, he could

not file the same before the Court at the earliest point of time.

7. It is pertinent to note that under the provisions of Section 138 of the negotiable Instruments Act, there is always a presumption in favour of the complainant. It is for the accused to rebut such presumption. Further, it is not the case of the petitioner that the cheque was issued in his favour basing on the alleged agreement and that the respondent-accused denied his signature on the cheque in question.

8. From the material on record, it is obvious that the complainant has not stated anything in his complaint as to the proposed document. Further, the complainant has neither mentioned in his complaint nor in the list of documents about the proposed document. Now, the stand taken by the petitioner is nothing but to fill up lacunae on his part.

9. Under the above circumstances, this Court is of the view that the order of the trial Court does not suffer from any illegality or irregularity warranting interference by this Court. Therefore, the revisions are liable to be dismissed.

10. Accordingly, the Criminal Revision Cases are dismissed. Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 21.1.2016

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