

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1163 OF 2014

ORDER:

This Criminal Revision Case, under Section 397 read with 401 of the Code of Criminal Procedure, 1973 is preferred by the complainant challenging the docket order, dated 01.04.2014, in C.C.No.357 of 2013 on the file of the VII Special Magistrate at Hasthinapuram, Ranga Reddy District.

2. Initially, the petitioner filed a private complaint against respondent No.1 herein before the XI Metropolitan Magistrate, Hasthinapuram for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and the same was numbered as C.C.No.1474 of 2013. Later, the said case was transferred to the Court of the VII Special Magistrate, Hasthinapuram and numbered as C.C.No.357 of 2013. The trial Court took an objection for marking of a document as an exhibit on the ground that the complainant has not paid stamp duty and penalty to a tune of Rs.3,29,890/- under Article 13 of the Indian Stamp Act, 1899 for which, learned counsel for the complainant submitted that the said document is an acknowledgment and not a bond and hence, there is no need to pay stamp duty and penalty. The operative portion of the impugned order reads as under:

“..... The Court perused the document and found that the said document disclose there is an obligation and attested by witnesses. Therefore, the said document shall be treated as bond. The complainant is directed to pay stamp duty and penalty as per the calculations made by the office. Therefore, unless the stamp duty and penalty paid,

it can't be marked. Hence, the document is rejected. Call on 07.04.2014."

Challenging the said docket order, the complainant filed this Criminal Revision Case.

3. Heard learned counsel for the petitioner and perused the entire material available on record.

4. Learned counsel for respondent No.1 is absent for two hearings.

5. Considering the facts and circumstances of the case, this Court is of the view that the document sought to be marked as an exhibit by the petitioner herein before the trial Court is a promissory note, dated 04.12.2010, which was executed by respondent No.1 in favour of the petitioner at the time of borrowing an amount of Rs.10,00,000/- from the petitioner and hence, the same is a primary document. Further, as C.C.No.357 of 2013 was filed under Section 138 of the Negotiable Instruments Act and the petitioner wants to produce the said document before the trial Court to substantiate his claim, the trial Court is directed to receive the said document and mark as an exhibit. However, the trial Court is at liberty to decide the evidentiary value and the authenticity of the said document during the course of trial.

6. With the above direction, the Criminal Revision Case is disposed of.

7. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

6.9.2016
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Date: 6.9.2016

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