

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.3936 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. challenging the order dated 28-12-2015 in CrI.M.P.No.497 of 2015 in C.C.No.279 of 2013 on the file of Additional Judicial First Class Magistrate, Sangareddy, dismissing the petition filed under Section 45 of the Indian Evidence Act seeking to send the cheque issued by the petitioner/accused to Handwriting Expert for knowing the writings made thereon.

The petitioner herein is the accused in C.C.No.279 of 2012 against whom the above case is filed under Section 138 of the Negotiable Instruments Act for dishonour of the cheque issued by the petitioner-accused. During pendency of the above case, after closure of the complainant's evidence and when the matter was coming up for arguments, the petitioner-accused filed the present application under Section 45 of the Evidence Act seeking to send the alleged cheque to Handwriting Expert for knowing the writings thereon. The learned trial Judge dismissed the said application, holding that the very filing of the petition without any sufficient or justifiable cause is nothing but dragging on the matter. Aggrieved by the said order, the present criminal petition is filed.

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

During the course of arguments, when the learned

counsel for the petitioner/accused was asked regarding taking of any stand in his reply or during cross-examination, the learned counsel for the petitioner-accused fairly stated that the petitioner has not taken any stand about the necessity for sending cheque for Handwriting expert while giving reply to the statutory notice issued by the complainant and he also did not dispute his signature on the alleged cheque during the course of cross-examination of PW.1-complainant. In such scenario, in the absence of any specific plea either in the reply notice or during the cross-examination disputing the writings in the alleged cheque, no question of sending the alleged cheque for Handwriting Expert for knowing the writings thereon would arise. However, on a perusal of the material on record as well as the impugned order, it is evident that the reasons assigned by the learned Magistrate in dismissing the petition are but just and reasonable in the facts and circumstances of that case and the same do not suffer from any infirmity or illegality warranting interference of this Court in exercise of jurisdiction under Section 482 Cr.P.C. and hence, the criminal petition is liable to be dismissed.

Accordingly, the criminal petition is dismissed. However, considering the facts and circumstances of the case, the presence of the petitioner/accused before the trial Court is dispensed with except on the dates when his presence is specially required for the purpose of examination under Section 313 Cr.P.C. and also on the date of judgment. Consequently, miscellaneous petitions, if any, pending, shall stand closed.

RAJA ELANGO, J

Date: 23-03-2016

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