

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL REVISION CASE No.189 of 2017

ORDER :

Heard and perused the material on record including the impugned order dated 23.12.2016 in CrI.MP.No.3026 of 2016 in C.C.No.104 of 2015 passed by the III Additional Judicial Magistrate of First Class, Kothagudem.

2. The defence of the accused to rebut the presumption available under reverse onus clause from the admission of Ex.P2- cheque signature belongs to him rooted from his account, as laid down by the three Judge bench of the Apex Court in Rangappa v. Sri Mohan¹. Once such is the case, in recognition of the valuable right of the defence of the accused saying the suit promissory note is a time barred one and there is a material alteration of 2004 into 2011, there is no legally enforceable debt for Ex.P2-cheque in question by virtue of Ex.P2-cheque claimed is barred by time, there is a necessity to send the document to expert, that too, when at paras 5 and 6 of the order, the lower Court had discussed about the suggestion in the cross examination and version of PW.1 of there appears to be an alteration, to decide the said alteration is there or not to consider the life of the promissory note debt.

¹ AIR 2010 SC 1898

3. Having regard to the above, the Criminal Revision Case is allowed setting aside the order dated 23.12.2016 in CrI.MP.No.3026 of 2016 in C.C.No.104 of 2015 passed by the III Additional Judicial Magistrate of First Class, Kothagudem. Consequently, CrI.MP.No.3026 of 2016 is allowed to send the suit promissory note to the handwriting expert to consider whether there is any material alteration, if so, what is the exact material alteration from original writing figure from the altered figure respectively, for that the petitioner shall deposit Rs.10,000/- (Rupees Ten thousand only) before the lower Court within one week from the date of receipt of copy of the order, for the lower Court to send the same, on such deposit, by meeting the expenses required for sending the document to the handwriting expert and after meeting the same to refund or direct to pay any balance amount by the petitioner herein.

4. Miscellaneous petitions, pending if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:17-03-2017
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