

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO
CRIMINAL REVISION CASE Nos.248 and 213 OF 2017

COMMON ORDER:

The complainant in C.C. No.218 of 2009 on the file of III Additional Judicial First Class Magistrate, Warangal, which is filed under Section 138 of N.I Act against the accused, when the matter is at the stage of arguments, filed two applications viz., one is to send the cheque bearing No.101863 to Hand Writing expert of Truth Labs, Hyderabad for second opinion for comparison of signatures with that of signatures obtained on 313 Cr.P.C examination for better adjudication of the case saying that the earlier opinion is not genuine and since the said application was dismissed by impugned order dated 20.12.2016, impugning the same, the present Criminal Revision Case No.248 of 2017 is filed and the Criminal Revision Case No.213 of 2017 is filed in relation to dismissal of the application in CrI.M.P. No.4931 of 2009 to summon the witness i.e., post master, GDS, BPM, Lohitha Branch along with original record pertaining to registered letter No.1612, dated 15.05.2009 to give his evidence, in proof of sending of the registered post by complainant through his advocate to the accused contemplated under Section 138 of N.I Act, after dishonour of cheque demanding payment saying that the earlier advocate is no more and the acknowledgement of the earlier advocate not traced, thereby the relevancy.

2) Heard both sides and perused the material on record.

3) So far as CrI.R.C. No.248 of 2017 is concerned, there is nothing to interfere with the order of the lower Court, as there is no illegality, impropriety or incorrectness but for giving liberty to the petitioner, if at all, for not chosen to examine expert on their side for the report is adverse, to make a request before the trial Court to summon as a Court witness with a right of cross examination to the opinion of the expert with reference to the reasons, if any, under Section 51 of Evidence Act.

4) So far as Crl.R.C. No.213 of 2017 is concerned, petitioner/ complainant is at liberty to file a certificate in proof of service of notice from the record of post office, failing which liberty is given to file a fresh application for such sending of proof.

5) Accordingly and in the result, both revisions are disposed of.

As a sequel, miscellaneous petitions if any pending shall stand closed.

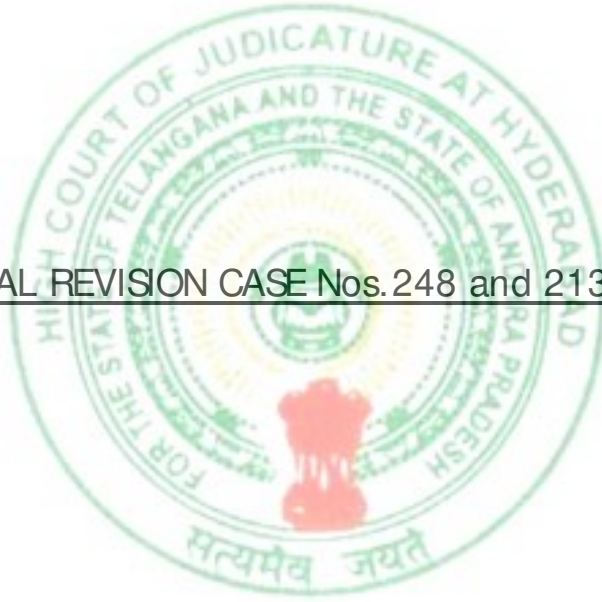
Dr. B. SIVA SANKARA RAO, J

Dt.13.02.2017
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Date:13.02.2017

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