

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL PETITION No.1141 of 2017

ORDER:

Heard Smt. M.Rajeswari, the learned counsel for the petitioner, and the learned Additional Public Prosecutor for the State of Andhra Pradesh on behalf of respondent No.2.

Since the request made in the present petition filed under Section 482 of the Code of Criminal Procedure is without any merit, having gone through the orders passed by both the Courts below, it is opined that no notice is required to be issued to respondent No.1.

Learned counsel for the petitioner has pointed out the observations made by the learned Additional Judicial First Class Magistrate, Gudivada, in the order, dated 15.04.2015, in CrI.M.P.No.628 of 2015 in C.C.No.55 of 2012, a copy of which is filed in the material papers.

A perusal of the observations in the order, dated 15.04.2015, pointed out by learned counsel for the petitioner, would show that the petitioner herein has admitted his signing on a blank cheque. In that context, the learned Magistrate observed that if the writing is either made by the accused or other person, it has no effect and the accused is at liberty to rebut the evidence of complainant either by letting his own evidence or depending upon the weakness of the case of the complainant and, thus, having found no grounds to allow the petition, dismissed the petition filed under Section 45 of the Evidence Act.

The same was confirmed by the XI Additional District & Sessions Judge at Gudivada, in the order dated 07.12.2016 in Criminal Revision Petition No.36 of 2015. Observing that the case was, in fact, posted for arguments and, at that stage, the petitioner filed the petition under Section 45 of the Evidence Act instead of advancing arguments, and also referring to the provisions of Section 20 of the Negotiable Instruments Act, the learned Additional Sessions Judge dismissed the revision filed against the order dated 15.04.2015. The learned Additional Sessions Judge also assigned concrete reasons for rejecting the request of the petitioner and also made an observation that the provisions of Section 73 of the Evidence Act can be invoked. Further, in paragraphs 18, 19 and 20, the learned Additional Sessions Judge referred to the decisions of the Hon'ble Supreme Court and also this Court and found that there was no merit in the revision and, accordingly, dismissed the revision petition.

When concurrent findings are rendered by both the Courts below, there is no need to enter into the arena of merits. Even otherwise, the submissions of the learned counsel for the petitioner lack merit. The orders passed by both the Courts below do not suffer from any legal infirmity or patent illegality and, therefore, no interference is warranted, more particularly, when it is an admitted fact that the cheque was signed by the petitioner, though, it is blank according to him.

Accordingly, the Criminal Petition is dismissed at the stage of admission itself.

Miscellaneous applications, if any pending in the present petition,
stand closed.

JUSTICE A.SHANKAR NARAYANA

13.02.2017

v v

