

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

Criminal Revision Case No.3315 of 2016

JUDGMENT:

This criminal revision case is filed under Sections 397 and 401 Cr.P.C. challenging the docket order dated 01.11.2016 passed in CrI.M.P. (SR) No.9413 of 2016 in CC No.170 of 2016 on the file of the V Additional Judicial Magistrate of First Class, Kakinada.

2. Heard the learned counsel for the petitioner and perused the record.

3. A perusal of the record reveals that the petitioner herein facing the trial in CC No.170 of 2016 on the file of the V Additional Judicial Magistrate of First Class, Kakinada, for the offence punishable under Section 138 of the Negotiable Instruments Act. Pending main case, the petitioner herein filed a petition under Section 45 of the Indian Evidence Act, with a prayer to sent the promissory note dated 18.09.2014 and the cheque bearing No.000008 dated 05.03.2016, for comparison of the admitted signatures with the disputed signatures of the petitioner. The trial court returned the petition on the ground that the petitioner did not file his contemporary signatures for comparison. The petitioner on number of occasions resubmitted the petition by assigning the reasons.

4. It is the duty of the court to number the criminal miscellaneous petition and pass orders on merits. The trial court is not justified in returning the petition on the ground that the petitioner has not produced his contemporary signatures. All these aspects have to be considered while passing the orders in the main petition. Viewed from

any angle, the trial court is not justified in returning the petition on untenable grounds.

5. In the circumstances, the criminal revision case is allowed by setting aside the docket order dated 01.11.2016 passed by the trial court. The trial court is hereby directed to number the CrI.M.P.(SR) No.9413 of 2016, if it is otherwise in order and pass orders thereon on merits.

Pending miscellaneous petitions, if any, in this case, shall stand closed.

Date: 03.01.2017.
BSS

T. SUNIL CHOWDARY, J



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