

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.3178 OF 2017

ORDER:

Requesting to quash the Order dated 10.3.2017 in Criminal Revision Petition No.2 of 2017 on the file of X-Additional District & Sessions Judge, Tirupati, the present criminal petition is filed under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code').

2. The learned Sessions Judge by the aforesaid order rejected the request by dismissing the Criminal Revision Petition by confirming the order passed by the II-Additional Judicial Magistrate of First Class, Tirupati, dated 20.12.2016, in Criminal M.P.No.7494 of 2016 in STC No.131 of 2016.

3. Heard Sri S. Lakshminarayana Reddy, the learned counsel for the petitioner.

4. In the peculiar facts occurring herein, having felt that there is no necessity to take process to the 1st respondent/complainant, service is not effected.

5. The petitioner herein is facing charge under Sections 138 and 148 of the Negotiable Instruments Act in S.T.C. No.131 of 2016. He made an application under Section 45 of the Indian Evidence Act to send the Cheque bearing No.850805, dated 27.01.2013 drawn on Bank of Maharashtra, Tirupati for the opinion of the Handwriting

Expert directing him to examine difference in the net as well as the signature along with their age of the ink and to submit a report to that effect.

6. The learned Magistrate having formulated the point for determination, on hearing both sides, having disbelieved the stand taken by the petitioner that he lost the Cheque issued while shifting his house and he never issued Ex.P1 - Cheque and his signature was forged and the Cheque was fabricated by the respondent/complainant, dismissed the petition.

7. The learned X-Additional Sessions Judge, Tirupati, referring to the purport of Section 397 of the Code also did not believe the stand taken by the petitioner and rejected the request by dismissing the revision petition. He has also observed that alternative option is available to summon the Bank officials and examine them and to resort to the same if the petitioner so chooses and the finding recorded by the learned Magistrate does not warrant any interference.

8. The learned counsel for the petitioner though, tried to support the stand taken by the petitioner that in case age of the ink is determined it would put an end to the litigation making the Court to arrive at a just conclusion in advancing cause of justice, but, however, he has fairly come out that the petitioner herein has not filed any counter in the S.T.C. and he has ascertained the said fact from his counterpart. This answer was given by the learned counsel when a

question is put as to the stand taken by the petitioner before the learned Magistrate in resisting the claim of the petitioner. When no factual foundation at all is laid and only coming forward with the petition under Section 45 of the Evidence Act requesting to send the disputed Ex.P-1, cheque for the opinion of Handwriting Expert, that too to determine the age of the ink and to submit a report therefor is wholly untenable.

9. Therefore, it is to be observed that only with some oblique motive the said petition appears to have moved by the petitioner. There is absolutely no merit in the petition and the order passed by the learned Sessions Judge, which is under challenge herein, does not suffer from any patent illegality, warranting interference. Therefore, the present petition is liable to be dismissed.

10. Accordingly, the Criminal Petition is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Petition shall stand closed.

Dt. 21.04.2017
gbs

A. SHANKAR NARAYANA, J