

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.10184 of 2017

ORDER:

This Criminal Petition is filed, under Section 482 Cr.P.C., by the petitioner/accused, aggrieved by the order, dated 12.09.2017, passed by the IV Additional District and Sessions Judge, Nellore, in CrI.M.P.No.563 of 2017 in C.A.No.192 of 2016.

2. The petitioner/accused herein filed the aforesaid Miscellaneous Petition under Section 391 Cr.P.C., to issue summons to the Branch Manager, IDBI, Gandhi Nagar, Bangalore, for evidence and to produce specimen signatures of petitioner/accused, for comparing the disputed signatures in the alleged cheque, which were taken at the time of opening A/c. No.0551104000062949. The said application was dismissed. Challenging the same, the present petition is filed.

3. The respondent/complainant filed a private complaint under Section 200 Cr.P.C., against the petitioner/accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the Act'). The Court below after considering the material on record, found the accused guilty of the offence referred to above and sentenced to undergo rigorous imprisonment for a period of one year. Aggrieved by the said Judgment, the petitioner/accused preferred an appeal and in the said appeal, he filed the aforesaid miscellaneous petition. In the affidavit filed before the Court below, it is stated that the Court below examined the Branch Manager of IDBI Bank as P.W.2 on behalf of respondent/complainant, but, at the time of examination of P.W.2,

the Court below did not allow him for comparing the disputed signatures on the alleged cheque due to non-summoning of specimen signatures, which were put at the time of opening of account by the petitioner/accused in the said Bank.

4. The Hon'ble Apex Court in **Girish Kumar Suneja v. C.B.I**¹, had an occasion decided the similar subject, which reads as follows:

"Therefore, when Section 397(2) prohibits interference in respect of interlocutory orders, Section 482, cannot be availed of to achieve same objective. In other words, since Section 397(2) prohibits interference with interlocutory orders, it would not be permissible to resort to Section 482. To set aside an interlocutory order prohibition in Section 397 will govern Section 482 thereof.

Thus, in view of law declared by Full Bench of the Apex Court in **Girish Kumar Suneja**⁷ case, no revision is maintainable against the interlocutory order in view of bar under Section 397(2) Cr.P.C., and similarly petition under Section 482 Cr.P.C is also not maintainable. Hence, the petition is liable to be dismissed on this ground also.

4. Accordingly, the Criminal Petition is dismissed. Miscellaneous petitions, if any, pending in this petition shall stand closed.

M. SATYANARAYANA MURTHY, J

NOVEMBER 03, 2017

YVL

¹ AIR 2017 SUPREME COURT 3620

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



CRIMINAL PETITION No.10184 of 2017

Date: 03.11.2017

YVL