

THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CRIMINAL REVISION CASE No.2792 of 2017

JUDGMENT:

Questioning the order dated 10.10.2017, passed in CrI.M.P.No.2652 of 2017 in C.C.No.616 of 2012 by the learned II-Additional Judicial First Class Magistrate, Tanuku, whereby and whereunder, he acceded to the request made by the complainant-respondent No.1 herein, under Section 65 (1) of Indian Evidence Act, for marking the photostat copy of the promissory note dated 15.05.2011, available in the court record, as secondary evidence.

The objection raised by the respondents - petitioners herein has been that a photostat copy cannot be marked and their second objection is that their valuable right to refer the said document for opinion of an expert will be lost.

This stand taken by the respondents – petitioners herein was not weighed with the learned Magistrate, as the learned Magistrate found that the photostat copy of the promissory note was compared with its original by the Superintendent of the Court and it was returned to the complainant. The complainant's case is that the original promissory note is misplaced and, therefore, he wanted to exhibit the photostat copy.

Heard Sri K.V.L.Narasimha Rao, learned counsel for the petitioners, who reiterates the very same grounds in the present revision case.

The procedure to be resorted to in criminal matters prescribed under Criminal Procedure Code is unlike the procedure under civil law, where the primary evidence is required to be produced before the court in case the entire lis depends on the very suit document. Here, in fact, the cheque said to have issued by the respondents - petitioners herein is material and the mandatory requirements contemplated under Section 138 of the Negotiable Instruments Act are to be seen. However, since, by way of secondary evidence, the photostat copy of the promissory note is sought to be introduced, which, of course, is already available in the record as mentioned in the above, the objections, which the respondents – petitioners herein intended to take, can be taken and agitated in the main hearing of the Calender Case, in which event, the learned Magistrate shall examine the relevant provisions of the Evidence Act in deciding the objections herein. The Calender Case relates to the year 2012 and pending for the past more than four years.

Hence, the present Criminal Revision Case is dismissed.

Miscellaneous applications, if any, pending in the Criminal Revision Case stand closed.

JUSTICE A.SHANKAR NARAYANA

07.11.2017

Note: Issue CC by tomorrow

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