

THE HON'BLE SRI JUSTICE P. KESHA RAO

Crl.R.C.No.822 of 2018

ORDER

Heard learned counsel for the petitioner and learned counsel for respondents 2 to 8.

2. The present criminal revision case is filed questioning the order dated 23.10.2017 passed in Crl.M.P.No.3132 of 2017 in C.C.No.178 of 2015 on the file of the IV Additional Judicial First Class Magistrate, Kakinada, East Godavari District, dismissing the petition filed under Section 311 Cr.P.C., to re-open the evidence of the petitioner herein, enabling him to send Ex.P-10 document to the expert.

3. The facts, in brief, are that the petitioner herein, lodged a complaint against respondents 2 to 8 for the offences under Sections 120-B, 379, 420, 440, 447, 468, 506(2) read with Section 34 IPC on the file of the above said Court. The Court below, after taking cognizance of the said offences, numbered the case as C.C.No.178 of 2015. In the said C.C., the evidence of the petitioner herein is completed as well as the evidence of respondents 2 to 8. When the matter was coming up for arguments, the petitioner herein filed the above said petition seeking permission of the learned Magistrate to re-open the matter enabling him to send Ex.P-10 to a handwriting expert. The counsel appearing for respondents 2 to 8 in the Court below opposed the petition. After hearing, the learned Magistrate was pleased to dismiss the petition by order

dated 23.10.2017. Aggrieved by the same, the present criminal revision case is filed.

4. Learned counsel appearing for the petitioner would contend that the Court below erred in dismissing the petition since the agreement of sale, is a forged document. He would further contend that in the complaint, the petitioner has categorically stated that his signatures are forged in English and after looking into the contents of the document and the signatures, he gave a complaint to the Sub-Inspector of Police and that in the backdrop of the present factual aspect, the learned Magistrate ought to have allowed the petition in reopening the case enabling him to send the said document to a handwriting expert.

5. Per contra, learned counsel appearing for respondents 2 to 8, would contend that the petitioner filed the petition only to drag on the proceedings and that a comprehensive civil suit is pending between the parties vide O.S.No.90 of 2014 on the file of the III Additional District Court, Kakinada. He would further contend that since the subject issue in the said suit is similar in the present C.C., he prays for dismissal of the criminal revision case.

6. Having heard both the counsel and from a perusal of the material on record, the undisputed facts are that the petitioner being the complainant, filed C.C.No.178 of 2015 for the above said offences against respondents 2 to 8 herein. In the said C.C., the evidence of both parties is completed and the matter is coming up for arguments. At this stage, the petitioner filed the present petition

to reopen the matter for the purpose of sending Ex.P10 document to the handwriting expert to prove that his signature has been forged by respondents 2 to 8 and created an agreement of sale, which is the subject matter of the above said suit. The fact remains that the proceedings in the present C.C., are at the fag end of its conclusion i.e., arguments stage. In fact when the issue involved in the present C.C., is directly in issue in a comprehensive civil suit, this Court, deems it appropriate, to direct the petitioner to file the present application in the civil suit since any finding arrived therein is binding on the parties in the present C.C. As such, this Court feels that there are no merits in the criminal revision case.

7. Accordingly, the Criminal Revision Case is dismissed. However, liberty is given to the petitioner to move a similar application for sending Ex.P-10 to a handwriting expert in the above said suit. It is needless to observe that on filing such application, the Court below shall dispose of the same without influencing the orders passed in the present criminal revision case. Miscellaneous petitions, if any pending in this revision, shall stand dismissed.

31st July, 2018

sj

P. KESHA RAO, J