THE HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE NO. 1650 OF 2017

ORDER:

The present Criminal Revision Case is filed aggrieved by the orders passed in Crl.M.P.No.1886 of 2016 in C.C.No.446 of 2015 dated 24.3.2017 on the file of the Court of IV Special Magistrate at Hyderabad in dismissing the petition filed Under Section 45 of the Evidence Act.

2. The facts of the case are that the petitioner herein, having acquaintance with the 2nd respondent family, approached her and requested to lend a sum of Rs.2,00,000/- as hand loan for his business needs. Pursuant to the said request, the 2nd respondent paid a sum of Rs.1,00,000/- on 12.1.2014 and Rs.1,00,000/- on 19.1.2014 in the presence of one G.Vinay and K.Narsing. The petitioner promised to repay the said amount on or before 31.1.2015. However, as the petitioner herein failed to repay the said amount, and on constant persuasions, the petitioner herein, on 15.3.2015, issued a Cheque bearing No.142399 dated 25.3.2015 for a sum of Rs.2,00,000/- drawn on HDFC Bank, Srinagar Colony Branch, Yellareddyguda, Hyderabad, requesting the 2nd respondent herein to deposit the same on 4.4.2015 so that he could keep the sufficient amount in his account. However, on presentation

of the said Cheque, the same was returned with an endorsement, "Account closed" on 7.4.2015. The 2nd respondent herein, after issuing a legal notice, filed a complaint Under Section 138 of Negotiable Instruments Act. The said complaint was numbered as C.C.No.446 of 2015. The trial also commenced in the said CC and PW1 was examined. At that stage, the petitioner herein filed petition Under Section 45 of the Evidence Act seeking permission of the Court to send Ex.P1 i.e., Cheque dated 25.3.2015 to Forensic Science Laboratory, Red Hills, Nampally, Hyderabad, for comparing the hand writing of the petitioner herein with the hand writing scribed on Ex.P1. It is his case in the said petition that the 2nd respondent herein with an ulterior motive for illegal monetary gains, filed a false complaint. In fact, the said cheque was not issued towards the discharge of liability of Rs.2,00,000/- but the cheque was issued in the past years before 2013 for security purpose and not liable for any debt as on the said date. Therefore, he filed the petition for referring Ex.P1 for expert opinion.

3. The 2nd respondent filed counter and contested the said Crl.M.P.No.1886 of 2016.

4. After hearing, the said Crl.M.P.No.1886 of 2016 was dismissed by order dated 24.3.2017 by the Court below.

Aggrieved by the said order, the present Criminal Revision Case is filed.

5. A perusal of the material on record would indicate that no evidence was placed before the Court below that neither the 2nd respondent nor her husband was running a money lending business on daily finance basis without holding any license. Though the petitioner has taken a specific plea that the subject cheque was issued before 2013 for security purpose, nothing has been elicited in the cross-examination as to what were the transactions which the petitioner herein and the 2nd respondent were having and in which connection, the said cheque was issued. Further, neither the petitioner has disputed the issuance of the said cheque nor there is any allegation that any fraud is played for obtaining the said cheque.

6. Per contra, the case of the 2nd respondent is that the subject cheque was issued towards legally enforceable debt of Rs.2,00,000/- received by the petitioner towards a loan. It is the further case of the 2nd respondent that the said amount was paid in the presence of one Sri G.Vinay and K.Narsing.

7. From the perusal of the material on record it is evident that neither it is the case of the petitioner herein that the subject cheque was tampered in any manner so as to suit to the convenience of the petitioner herein nor there is any

allegation of prima facie fraud. In fact, the cheque was in pursuance of some past transactions which amounts to issuance of the cheque by the petitioner himself. In those circumstances, the petitioner has not made out any valid grounds to send the subject cheque to a hand writing expert. As such, this Court finds no irregularity or illegality in the order passed by the Court below in dismissing the Criminal M.P.No.1886 of 2016.

7. Therefore, there are no merits in the Criminal Revision Case and accordingly, the Criminal Revision Case is dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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P. KESHAVA RAO,J

Date: 7.6.2018

KPM