

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.627 of 2018

ORDER

Heard the learned counsel for the petitioner as well as the second respondent.

The present criminal revision case is filed questioning the orders dated 05.01.2018 passed in CrI.M.P.No.58 of 2018 in C.C.No. 234 of 2017, on the file of the Court of the XIX Special Magistrate, Hyderabad, dismissing the petition with costs of Rs.500/- calling for the specimen signature form/card of the petitioner from the State Bank of India, Jeedimetla Industrial Area, Hyderabad and service register from his work place to send the same to the Forensic Science Laboratory, Hyderabad to get opinion about the genuineness of the signature on the cheque and in the process to know that the signature on the cheque does not belong to him.

The facts of the case in brief are that the second respondent, filed C.C.No. 234 of 2017 by the petitioner for the offence under Section 138 of the Negotiable Instruments Act, basing on a cheque, which was said to be dishonoured. In fact, it is the case of the petitioner that he handed over the blank cheque in connection with the car loan transaction, but the second respondent forged the signature on the cheque and filed the case. Therefore, the signature on the cheque does not belong to him and as such, it is essential to call for the records pertaining to his signature from State Bank of India, Jeedimetla Industrial Area, Hyderabad and also the service register from his office and send the same to the Forensic Science Laboratory, Hyderabad for examination. Per contra, the specific case of the second respondent is that the subject cheque was issued by the petitioner towards receipt of Rs.3,50,000/- towards hand loan. During the pendency of the calendar case, the petitioner filed CrI.M.P.No. 58 of

2018, under Section 45 of the Indian Evidence Act r/w section 311 Cr.P.C. to call for the documents from the above said respective offices and send them to the Forensic Science Laboratory, Hyderabad for opinion. The learned Special Magistrate, after hearing the parties, was pleased to dismiss the petition by order dated 05.01.2018. Aggrieved by the same, the present criminal revision case is filed.

Learned counsel for the petitioner would contend that the Court below erred in dismissing the petition without proper perusal of the record before it since the finding that he has not disputed the signature on the questioned document in his cross-examination, is contrary to the material on record. In the light of the explanation given under Section 313 Cr.P.C. examination on the incriminating circumstances shown against him, the present petition would have been allowed by the Court below. Since the second respondent is not having any objection in calling for records, and sending the same to handwriting expert, the Court below ought not to have rejected his request and dismissed the petition. Per contra, the learned counsel for the second respondent, would contend that there are no merits in the revision case and the same is liable to be dismissed, apart from supporting the impugned order.

Having heard both the learned counsel and from the perusal of the material on record, it is revealed that the second respondent filed C.C.No.234 of 2017 against the petitioner for the offence under Section 138 of the Negotiable Instruments Act. The bone contention between the parties is whether the subject cheque was issued towards hand loan received from the second respondent or that the second respondent has used the cheque said to have been issued in connection with a car loan transaction by forging the signature of the petitioner. During the course of trial, PW-1 was examined and thereafter, the petitioner was examined

under Section 313 Cr.P.C. and the matter was posted for arguments. At that stage, the present petition has been filed. From the perusal of the impugned orders, it is revealed that though the petitioner initially denied the entire claim of the second respondent, but from the perusal of the cross examination of PW-1, the petitioner has not denied or disputed his signature on the questioned cheque and on the other hand, he admitted that the cheque belongs to him. Even in 313 Cr.P.C. examination, the petitioner clearly admitted that the subject cheque belongs to him. Even in the reply notice issued in Ex.P-8, the petitioner has categorically admitted that the subject cheque belongs to him and there is no whisper with regard to disputing his signature. When the petitioner admitted the issuance of the cheque which belongs to him and not disputed the signature on it, the question of sending the same to the hand writing expert does not arise with regard to ascertaining his signature. As such, it appears that the present petition is filed only to drag on the proceedings since the present petition is filed at the stage of arguments. In these circumstances, this Court is of the opinion that there are no merits in the revision case and is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHA VA RAO, J

Date: 03.07.2018.
CCM

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