

THE HON'BLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE NO.2317 OF 2013

ORDER:

Heard the learned counsel for the petitioner as well as the learned counsel for the 1st respondent.

2. The present Criminal Revision Case is filed against the orders passed in CrI.M.P.No.62 of 2012 in CrI.A.No.13 of 2012 on the file of the III Additional Sessions Judge, Karimnagar, dismissing the petition filed Under Section 45 of Indian Evidence Act read with Sec.243 of Cr.P.C.

3. Brief facts of the case are that the petitioner herein is charged for the offence Under Section 138 of Negotiable Instruments Act in C.C.No.372 of 2007 on the file of the Additional Judicial Magistrate of First Class, Karimnagar. During the pendency of the said CC, the petitioner herein filed a petition Under Section 45 of the Indian Evidence Act for referring the admitted signatures of PW2 along with the signatures on Ex.P1 to hand writing expert. However, the Director of Forensic Science Laboratories, has asked to send fresh and additional signatures available, for clarification. However, as the other admitted signatures were not available, the petitioner herein requested the trial Court to compare the signatures by invoking the provisions of Section 73 of the

Indian Evidence Act. However, after trial, the petitioner has been convicted. Aggrieved by the same, the petitioner herein filed appeal in CrI.A.No.13 of 2012. Pending the said appeal, petitioner filed another petition vide CrI.M.P.No.62 of 2012 Under Section 45 of the Indian Evidence Act read with Section 243 of Cr.P.C. The said petition was dismissed by orders dated 19.9.2013. Aggrieved by the same, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioner would contend that he was forced before the trial Court to seek adjournment time and again for the purpose of sending additional signatures to the expert. As no such additional signatures of PW2 were available to compare with the signature on Ex.P1, he requested the Court to proceed with the matter. However, the procedure contemplated Under Section 73 of the Indian Evidence Act, can be followed.

5. Per contra, learned counsel for the 1st respondent supported the impugned orders.

6. Having heard both the counsel and a perusal of the material on record would disclose that sending the signatures of PW2 by invoking the provisions of Section 45 of the Indian Evidence Act is not available to the petitioner since the additional signatures of PW2 are not available. The other

procedure available is as prescribed Under Section 73 of the Indian Evidence Act.

7. In the above circumstances, learned III Additional Sessions Judge, Karimnagar, is directed to compare the signatures by invoking the provisions of Section 73 of the Indian Evidence Act for comparing the signatures of PW2 with the signatures on Ex.P1 while passing the orders.

8. With the above observations, the Criminal Revision Case is disposed of.

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

Date: 28.6.2018

KPM

P. KESHA RAO, J

