

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO. 1267 OF 2018

ORDER:

Heard the learned counsel for the petitioner and the learned counsel for respondent No.2.

2. The present Criminal Revision Case is filed questioning the orders passed in CrI.M.P.No.528 of 2018 in CC.No.434 of 2017 dated 3.4.2018 on the file of the Court of the Special Judicial Magistrate of First Class (Prohibition and Excise Cases) at Khammam.

3. The facts of the case are that the 2nd respondent herein filed a complaint in CC.No.434 of 2017 against the petitioner herein for the offence under Section 138 of Negotiable Instruments Act. Pending the said CC, the petitioner herein who is the accused filed CrI.M.P.No.528 of 2018 under Section 45 of Indian Evidence Act to send his specimen signatures along with disputed signatures on promissory note and cheque to a hand writing expert for comparison. The Court below, after hearing, was pleased to dismiss the petition by orders dated 3.4.2018. Aggrieved by the same, the present Criminal Revision Case is filed.

4. Learned counsel for the petitioner would contend that it is the specific case of the petitioner herein that he has not issued the cheque and he has not signed on the cheque. However, respondent No.2 herein, obtained cheque from other source and filed a complaint against him, and unless the promissory note and the

cheque are sent to a hand writing expert, the truth or otherwise cannot be elicited.

5. Per contra, learned counsel for respondent No.2 contended that the evidence of PW1 is not yet completed. So, at this stage, the petition is not maintainable.

6. Having heard both the counsel and on perusal of the material on record, it is disclosed that the evidence in CC.No.434 of 2017 has commenced and the cross-examination of PW1 is not completed. A copy of the deposition produced before this Court during the course of hearing, discloses that the execution of the promissory note and the issuance of the cheque and the signature on the same are not even adverted to respondent No.2 in the cross-examination. That being so, this Court feels that this is not the appropriate stage for filing the petition to refer to a hand writing expert and it is premature to observe as to whether the cheque was issued by the petitioner herein or not.

7. In the above circumstances, this Court feels that there are no merits in the Criminal Revision Case and the same is dismissed accordingly. However, liberty is given to the petitioner herein to move a fresh application after completion of the evidence.

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

P. KESHA VA RAO,J

Date: 13.7.2018

KPM