

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL REVISION CASE No.690 OF 2011

ORDER:

This criminal revision case is filed by the petitioner/accused, under Sections 397 and 401 of Cr.P.C., aggrieved by the order dated 09.02.2011 in CrI.M.P.No.423 of 2011 in C.C.No.79 of 2010, passed by learned Special Judicial Magistrate of First Class (Prohibition and Excise), Khammam, allowing the petition filed by the respondent/complainant to receive the original promissory note dated 01.05.2007 said to be executed by the petitioner/accused in favour of respondent/complainant and mark the same as exhibit on his behalf.

2. (a) The respondent/complainant filed C.C.No.79 of 2010 under Section 138 of N.I.Act against the petitioner/accused with the allegations that on 01.05.2007, one Sigarapu Ramanadham approached him for a loan of Rs.1,00,000/- to meet his family necessities and the complainant agreed to give the loan if he gets a proper surety. On that, the said Sigarapu Ramanadham brought the accused to the complainant and since the complainant knows the accused, he agreed to advance an amount of Rs.1,00,000/- as loan to one Sigarapu Ramanadham and accused voluntarily stood as guarantor for the aforesaid Sigarapu Ramanadham and accordingly, on 01.05.2007, the

complainant advanced an amount of Rs.1,00,000/- to Sigarapu Ramanadham before the witnesses and the said Sigarapu Ramanadham executed promissory note in favour of the complainant and the accused stood as surety for the said loan. The Further case of the complainant is that in spite of repeated demands, the Sigarapu Ramanadham failed to pay the pro-note amount and therefore, to discharge the legal liability of said Sigarapu Ramanadham, the accused issued cheque for Rs.1,50,000/- towards discharge of principle and interest amount and later, the said cheque was bounced back when presented with the bank. Hence, the complaint.

(b) While so, during trial, the complainant filed Crl.M.P.No.423 of 2011 requesting the trial court to permit him to produce the original promissory notice dated 01.05.2007 as he could not file the same along with the complaint since it was misplaced.

(c) The petitioner/accused filed counter and opposed the same and the trial court, its impugned order dated 28.01.2011, allowed the petition subject to proof and relevancy.

3. Today, when the matter came up for hearing, there is no representation for petitioner. It is an old matter of the year 2011. Hence, heard learned counsel for respondent.

4. The respondent/complainant has made a clear averment in the complaint to the effect that he lent Rs.1,00,000/- to Sigarapu Ramanadham on 01.05.2007 and in turn, said Sigarapu Ramanadham has executed promissory note dated 01.05.2007. Therefore, it can be said that the respondent/complainant has not come up with such averment for the first time in CrI.M.P.No.423 of 2011, but, he made a basis in the complaint itself. The trial court rightly allowed the petition and permitted him to produce the pro-note subject to, of course, proof and relevancy. Hence, Cr.R.C. is bereft of merits. For another reason also, the CrI.R.C. is not maintainable because the order impugned, is interlocutory order and hence, no criminal revision case is maintainable as against such an order, vide the decision of the Hon'ble Supreme Court in **Sethuraman v. Rajamanickam**¹.

5. Accordingly, this criminal revision case is dismissed. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

22.10.2018

Note: Office is directed to communicate a copy of this order to the trial court.

B/o.SS

¹ (2009) 5 SCC 153