

**HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY**

**Crl.P. No.5767 OF 2018**

**ORDER:**

This petition is filed under Section 482 of the Code of Criminal Procedure questioning the order dated 15.02.2018 in Crl.M.P.No.412 of 2017 in C.C.No.25 of 2016 passed by the Additional Judicial Magistrate of First Class, Markapur, whereby the petition filed under Section 45 of the Indian Evidence Act was dismissed.

The petitioner filed petition under Section 45 of the Indian Evidence Act alleging that the above calendar case was registered for the offence punishable under Section 138 of the Negotiable Instruments Act (for short 'N.I.Act') and the specific plea in filing the petition is that the signatures on Exs.P.1 to P.3 were forged and requested the Court to refer the disputed signatures on Exs.P.1 to P.3 along with admitted signatures of the petitioner to the expert for his opinion.

When the respondents reported no counter, the Court below passed the following order:

“counsel for respondent reported no counter. Perused the record and the petition. This petition filed to send Ex.P.1 to P.3 for expert opinion. Record disclose that case is coming up for cross of PW.1. At this stage without examining PW.1 in cross, this petition filed by stating that he has taken defence of the said Ex.P.1 to P.3 as forged from cross examination.

There is no rational sense in the averments of the petition and the record available. Further the plea of the petitioner is vague. Here petition is dismissed as no merits.”

The respondent challenged the impugned order before this Court on the ground that the impugned order is erroneous and it is based on no

reason and requested the Court to set aside the same and issue proper direction to the Court below.

The impugned order is bereft of any reason and the reason assigned by the Court below is erroneous on the face of it. Learned counsel for the 2<sup>nd</sup> respondent reported no objection to allow the petition to refer Exs.P.1 to P.3 for expert opinion. Therefore, the impugned order is set aside while remitting the matter to the Court below directing to pass appropriate order keeping in mind the no objection reported by learned counsel for the 2<sup>nd</sup> respondent.

With the above direction, the criminal petition is disposed of.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

11.06.2018  
kvrn

**M.SATYANARAYANA MURTHY,J**

