

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO.1373 OF 2018

ORDER:

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

2. The present Criminal Revision Case is filed against the orders passed in CrI.M.P.No.252 of 2018 in C.C.No.73 of 2015 dated 11.4.2018 on the file of the Principal Junior Civil Judge, Avanigadda, Krishna district, dismissing the petition filed under Section 45 of Evidence Act.

3. The facts of the case are that the petitioner herein approached the 1st respondent requesting to lend an amount of Rs.5,00,000/- on 17.3.2013 for the purpose of realization of family debts. Accordingly, the 1st respondent herein lent an amount of Rs.5,00,000/- in favour of the petitioner herein. The petitioner, in-turn agreed to pay the said amount with compound rate of interest at Rs.2/- p.m. and handed over a promissory note to the 1st respondent/complainant on the same day. Thereafter, when the 1st respondent demanded for repayment of the said amount, the petitioner postponed the same. On insisting to pay the said amount, the petitioner issued a cheque dated 15.10.2014 bearing No.640878 for

Rs.5,00,000/- drawn on State Bank of India, Avanigadda. When the said cheque was presented for realization, it is returned with an endorsement, "Funds Insufficient" vide memo dated 15.10.2014. Thereafter, the 1st respondent issued a legal notice and after complying with the formalities, filed a complaint vide C.C.No.73 of 2015 before the Principal Junior Civil Judge at Avanigadda. The 1st respondent herein examined himself as PW1 and the matter was coming up for cross-examination. At that stage, the petitioner herein filed a petition in CrI.M.P.No.252 of 2018 under Section 45 of the Evidence Act for sending Ex.P1 Cheque and Ex.P2 promissory note to the Director, Andhra Pradesh State Forensic Science Laboratory, Red hills, Hyderabad, to compare the alleged signatures of the petitioner found on Exs.P1 and P2 with that of the admitted signatures.

4. The 1st respondent filed counter and contested the said petition.

5. After hearing, the Court below was pleased to dismiss the said petition by orders dated 11.4.2018. Aggrieved by the same, the present Criminal Revision Case is filed.

6. A perusal of the order would indicate that the petitioner sought to send Ex.P2, promissory note, but Ex.P2 is a Cheque return memo. On the other hand, as per the record, no

promissory note is marked as an Exhibit on behalf of the 1st respondent/complainant. Though the petitioner herein prayed for sending the documents to a hand writing expert, he has not taken any plea that he has filed any admitted contemporary signatures or even specified those documents. The petitioner herein has also not filed any admitted contemporary signatures. Therefore, without filing any contemporary admitted signatures and seeking to send Ex.P1 along with the admitted contemporary documents for comparison, does not arise. In those circumstances, the Court below was pleased to dismiss the petition. When the petitioner has filed petition Under Section 45 of the Evidence Act to send Exs.P1 and P2 for expert opinion, he ought to have taken steps for placing the admitted contemporary signatures for comparison with that of the alleged disputed signatures on Ex.P1. Though petitioner has also sought to send Ex.P2, promissory note, but on record Ex.P2 is only a cheque return memo. These facts clearly establish that there are no bonafides on the part of the petitioner in filing the petition but it is only to drag on the proceedings for some or the other reason. As such, this Court feels that there are no merits in the Criminal Revision Case and accordingly, Criminal Revision Case is dismissed.

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

P. KESHAVA RAO,J

Date: 8.6.2018

KPM

