

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.97 of 2019

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.11-07-2018 in I.A.No.829 of 2018 in O.S.No.30 of 2014 of the XIII Additional District and Sessions Judge, Ranga Reddy District.

2. Petitioner is defendant in the suit.
3. The respondent/plaintiff filed the said suit for recovery of money on the basis of a promissory note allegedly executed by petitioner.
4. The petitioner denied its execution and contended that on a blank paper on which his signature was obtained, the suit promissory note was created.
5. Petitioner, during the course of trial, filed I.A.No.829 of 2018 under Section 45 of the Indian Evidence Act, 1872 to send the suit promissory note to a Handwriting Expert for comparison of the writings contained in the suit document.
6. Petitioner contended that he did not execute the suit promissory note, that the writings and date mentioned in the promissory note were fabricated and created and so it ought to be sent to an Expert for comparison of writings thereon with the admitted writings of the respondent/plaintiff.

7. Counter-affidavit was filed by respondent stating that petitioner had filed chief-examination affidavit admitting his signature on the promissory note, that he had also admitted his signature in the cross-examination and once such signature is admitted, there is no necessity to send the document to Handwriting Expert for comparison of any writings on the promissory note.

8. By order dt.11-07-2018, the Court below dismissed the said application. It relied on the decision of this Court in **D.Atchyutha Reddy Vs. State of Andhra Pradesh and another**¹ and held that law is well settled that body of the cheque need not necessarily be written by the borrower and it can be in the handwriting of anybody else or typed on a type machine, so long as the borrower does not dispute the genuineness of the signature on the cheque. The Court below applied the said decision to the instant case though the instant case is one relating to a promissory note. It took into account the admission of the petitioner contained in the written statement that he had affixed his signature to the promissory note and opined that once signature is admitted by the petitioner, there is no necessity to send it to an Expert for Expert opinion since contents of the promissory note could be in the writing of anybody else or typed.

9. Assailing the same, this Revision is filed.

10. Learned counsel for petitioner contended that respondent having pleaded that petitioner had executed the promissory note in

¹ 2009(3) ALT (CrI.) 286 (A.P.)

question, it has to be presumed that the pleading of the respondent is that the promissory note in its entirety included its writings and not in the handwriting of the petitioner. However, there is no such specific averment in the pleading of the respondent. The petitioner had denied the execution of the said promissory note and pleaded only that it was created on a blank signed promissory note. Thus, the signature of the petitioner on promissory note is admitted.

11. In these circumstances, having regard to the law declared in **D.Atchyutha Reddy** (1 supra) and **Gorantla Venkateswara Rao Vs. Kolla Veera Raghava Rao and another**², since the body of promissory note need not be written by defendant and it can be in the handwriting of anybody, no useful purpose would be served by sending the subject promissory note to an Expert to compare the handwriting thereon with that of the petitioner or the respondent.

12. Therefore, I do not find any merit in the Revision and it is accordingly dismissed at the stage of admission. No costs.

13. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 04-02-2019
Vsv

² 2005(2) ALD (CrL.) 840 (AP)