

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

CRIMINAL REVISION CASE Nos.31 AND 41 OF 2019

COMMON ORDER:

Impugning the orders, dated 17.12.2018, in CrI.M.P.Nos.1002 and 1003 of 2018 filed by the petitioner/accused in C.C.No.14 of 2016 pending on the file of VII Special Magistrate, Hasthinapuram, L.B. Nagar, which is the outcome of the private complaint of the 2nd respondent for the offence under Section 138 of the Negotiable Instruments Act, 1881, these two revisions are filed. The two petitions are filed one to take the specimen signature/writings of PW.2 and the other is to send Ex.P9 – Pronote and Ex.P1 – Cheque to hand writing expert to compare the writings in the said documents with that of PW.2, in saying the inconsistencies in the cross-examination of PWs.1 and 2 in the transaction itself enables with reference to it to establish that there is no any legally enforceable debt or other liability though the signature on the Pronote and Cheque routed from the account of the petitioner/accused not in dispute. The trial Court dismissed the said petitions after contest and impugning the same, these revisions are filed.

2. Heard at length and perused the material on record.
3. It is not in dispute of the cheque routed from the account of the petitioner/accused with his signature. It is not even in dispute of the signature on the Pronote as that of the petitioner/accused. Once such

is the case, who ever filled the contents, whether it comes as an inchoate instrument under Section 20 of the Negotiable Instruments Act or otherwise, and the presumptions under Sections 139 and 118 (A) to (F), any of them, available or not is a matter of defence, including from preponderance of probability, to establish with reference to the so called inconsistencies in the evidence of PWs.1 and 2, leave about right of the petitioner/accused if at all chosen to come to witness box with leave of the Court under Section 315 Cr.P.C. Having regard to the above, no practical purpose would be served even by comparison of the filling of the contents of the Pronote and Cheque and getting of any positive report from the expert. Having regard to the above, there is nothing to interfere with the impugned orders, but for to say none of the observations in the dismissal of these revision cases will influence the mind of the trial Court in deciding the cheque bouncing case, but for on its own merits.

4. Accordingly, the Criminal Revision Cases are dismissed.

Miscellaneous Petitions, if any, pending in these revision cases shall stand closed.

DR. B. SIVA SANKARA RAO, J

February 21, 2019.
MD