

HON'BLE Dr. JUSTICE D.NAGARJUN

CRIMINAL REVISION CASE No. 1703 OF 2009

ORDER:

This Criminal Revision Case is filed aggrieved by the order dated 13-07-2009 passed in CrI.M.P.No. 1573 of 2009 in CC.No. 374 of 2007 on the file of IV Metropolitan Magistrate, Cyberabad, Ibrahimpatnam, Ranga Reddy District.

2. The respondent No.2/accused has filed CC.No.374 of 2007 against the petitioner/complainant for the offence under Section 138 of the Negotiable Instrument Act. During the pendency of CC.No.374 of 2007, in the course of trial, the petitioner/complainant has filed a petition i.e., CrI.M.P.No. 1573 of 2009 under Section 45 of the Evidence Act, requesting the Court to forward Ex.P.1/Cheque and Ex.P.6/ Postal Acknowledgment Card for examination of an expert to compare the typo matter of both the documents and to give opinion whether both the documents were typed with the same type writer or not. After full-fledged enquiry, the said petition was allowed vide order dated 13.07.2009.

3. Aggrieved by the said order, the petitioner/complainant has filed the present case.

4. I have gone through the orders passed by the Trial Court and also the record available before the Court. On considering the complaint, the defence taken by the Petitioner/complainant and on perusal of the documents under Ex.P.1/Cheque and Ex.P.6/ Postal Acknowledgment Card , the Trial Court after elaborate discussion as to the necessity of sending both the documents to the expert has concluded that whether both the documents can be sent to an expert to compare whether both the documents are typed on the same type machine. It is also observed by the Trial Court that in case if the documents are not sent, serious prejudice would be caused.

5. The contention of the Petitioner/complainant is that in order to substitute his defence, both the documents are required to be sent to an expert to give an opinion as sought for. It is to be seen that, if at all, whatever the petitioner/complainant is saying incorrect and if at all, the petitioner has advanced money for such enforceable debt, if the respondent No.2/accused has given the cheque, then there is no reason why the petitioner/complainant is

hesitant and raising objection for sending both the documents to the expert. Therefore, basing on the appreciation of material before the Trial Court, this Court is of the opinion that the learned Magistrate has rightly concluded to send the documents i.e., Ex.P.1/Cheque and Ex.P.6/ Postal Acknowledgment Card to the expert.

6. The jurisdiction of the Revisional Court is very limited. This Court cannot sit like an Appellate Court and re-write the orders to give a different finding. The role of this Court while exercising the revisional jurisdiction is only limited to the extent if any miscarriage of justice was done or any illegality was occurred while passing the orders in question. Further, order dated 13.07.2009 was passed by IV Metropolitan Magistrate, Cyberabad, Ibrahimpatnam, Ranga Reddy District and thereby 13 years have already been lapsed. As per the record, this Court has not granted any stay directing the Trial Court not to proceed with the trial of the case, which means, within the period of these 13 years, the expert must have sent the report and the Trial Court should have

completed the investigation and the case must have been disposed of.

7. In view of the aforesaid submissions, there are no merits in the Criminal Revision Case and therefore, the same is liable to be dismissed.

8. Accordingly, the Criminal Revision Case is dismissed. No costs.

9. Pending Miscellaneous Applications, if any, shall stand closed.

Dr. D.NAGARJUN, J

Date: 10.11.2022
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