

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**TUESDAY, THE TENTH DAY OF JANUARY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL PETITION NO: 326 OF 2023

Between:

Nampally Srinivas, S/o. Ramaiah, Aged 40 years, Occ. Business, R/o. H.No.2-7-107,
Sanjeevayya Nagar, Sircilla Proper and Mandal, Rajanna Sircilla District.

...PETITIONER/PETITIONER/ACCUSED

AND

1. Samala Babu, S/o. Laxmirajam, Aged about 48 years, Occ. Business, R/o.
H.No.2-6-103, Sanjeevayya Nagar, Sircilla Proper and Mandal, Rajanna
Sircilla District.

...RESPONDENT/RESPONDENT/COMPLAINANT

2. The State of Telangana, Rep. by Public Prosecutor, High Court for the State
of Telangana at Hyderabad.

...RESPONDENT

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Quash the Order dated 06-04-2021 passed in CrI.R.P.No.16 of 2020 on the file of Hon'ble IX Additional District and Sessions Judge at Sircilla, Rajanna Sircilla District.

I.A. NO: 1 OF 2023

Petition under Section 482 of Cr.P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to Stay all further proceedings in C.C. No. 359 of 2016 on the file of Addl. Judicial Magistrate of First Class, at Sicilia, Rajanna Sicilla District, pending disposal of the above Criminal Petition.

This Petition coming on for hearing, upon perusing the Memorandum of Grounds of Criminal Petition and upon hearing the arguments of Sri V. V. Ramana Rao, Advocate for the Petitioner and the Public Prosecutor (TG) on behalf of the Respondent No.1,

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL PETITION No.326 OF 2023****ORDER :**

Aggrieved by the judgment dated 06.04.2021 passed in Crl.R.P.No.16 of 2020 by the learned IX Additional District Judge, Sircilla, this Criminal Petition is filed by the Petitioner-Revision Petitioner-Accused.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the respondent No.2 – State. Perused the material on record.

3. The case of the petitioner is that he is accused, being prosecuted for the offence under Section 138 of Negotiable Instruments Act (for short "NI Act"). However, when an application under Section 45 of Indian Evidence Act was made by this petitioner before the Additional Judicial Magistrate of First Class, Sircilla with a prayer to send the cheque in question to an handwriting expert for the purpose of comparison, the same was rejected by the Magistrate mainly on two grounds i.e. firstly on the ground that the cheque was not returned by the bank on the

ground of dissimilarities in the signature of the petitioner but was returned on account of "insufficient funds" and secondly the signatures of the relevant period were not furnished. The said refusal by the learned Magistrate was carried in revision to the Sessions Court by the petitioner. The learned Sessions Judge in revision concurred with the findings of the learned Magistrate and dismissed the revision petition of this petitioner. However, the petitioner has taken his stand that the signature on the cheque is forged and it is not of his signature.

4. Learned counsel for the petitioner submits that the signatures of the relevant time would be available with the bank when the account was opened. The said signatures in the bank can be compared with the signatures on the cheque. He relied upon the judgment of the Hon'ble Supreme Court in case of Kalyani Bhasker vs. M.S.Sampoornam¹ in which it is held that 'a fair chance has to be given in the circumstances of the accused denying his signature and requesting the Court to send it for expert for the purpose of an opinion regarding the signatures on the cheque'.

¹ (2007) 2 SCC 258

5. In view of above discussion, since the petitioner has taken stand that the signature is not that of his and filed an application at the earliest point of time, this Court deems it appropriate to direct the learned Magistrate to send the cheque in question to the handwriting expert to compare with the specimen signatures available in the bank.

6. With the above direction, the Criminal Petition is allowed.

Miscellaneous applications pending, if any, shall stand closed.

//TRUE COPY//

Sd/-V.KAVITHA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The IX Additional District Judge at Sircilla, Sircilla District.
2. One CC to Sri V. V. Ramana Rao, Advocate [OPUC]
3. Two CCs to Public Prosecutor, High Court for the State of Telangana (OUT)
4. Two CD copies.

KK
gbr

8
9

HIGH COURT

DATED:10/01/2023



ORDER

CRL.P.No.326 of 2023

ALLOWING THE CRIMINAL PETITION

⑦ Copies

Sm
8/2/23