HC-KAR
CNR: KAHC010032272023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

CRIMINAL PETITION NO. 842 OF 2023
C/W
CRIMINAL PETITION NO. 573 OF 2023,
CRIMINAL PETITION NO. 585 OF 2023,
CRIMINAL PETITION NO. 819 OF 2023

IN CRL.P No. 842/2023:

BETWEEN:

SRI RITESH KUMAR
S/O NANDA KUMAR
AGED ABOUT 41 YARS
R/A #506, 15TH A MAIN, 2ND STAGE
BASAVESHWARANAGAR
BENGALURU - 560 068
OFFICE AT C/O. FILMY PEOPLE PRODUCTIONS
NO. 29, INCOMEE TAX LAYOUT
VISHWANEEDAM POST
BEHIND EAST COLLEGE
BENGALURU - 560 091.

...PETITIONER

(BY SRI ABHINAV RAMANAND A, ADV.)

AND:

SRI S.V. RAGHAVENDRA
S/O S.V.V. SHETTY
AGED ABOUT 46 YEARS
R/AT NO.1, SS LAYOUT, 3RD STAGE
4TH BLOCK, BASAVESHWARANAGAR
BENGALURU - 560 079.

...RESPONDENT

(BY SMT. NITHYA ABHILASH, ADV., FOR
SRI PRAKASH M.H, ADV.)

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Location: HIGH COURT OF KARNATAKA

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO SET ASIDE THE IMPUGNED ORDER PASSED BY THE HONBLE LX ADDL.CITY CIVIL AND SESSIONS JUDGE (CCH-61) AT BENGALURU IN CRL.RP.NO.135/2021 DATED 14.10.2022 VIDE ANNEXURE-A AS WELL AS THE IMPUGNED ORDER IN C.C.NO.22607/2016 DATED 05.03.2021 PASSED BY THE XXII ADDL.C.M.M., BENGALURU VIDE ANNEXURE-B IN ACCORDANCE WITH LAW AND ALLOW THE INSTANT PETITION.

IN CRL.P NO. 573/2023:

BETWEEN:

SRI RITESH KUMAR
S/O NANDA KUMAR
AGED ABOUT 41 YARS
R/AT NO. 506, 15TH A MAIN
2ND STAGE, BASAVESHWARANAGAR
BENGALURU - 560 068
OFFICE AT C/O. FILMY PEOPLE PRODUCTIONS
NO. 29, INCOMEE TAX LAYOUT
VISHWANEEDAM POST
BEHIND EAST COLLEGE
BENGALURU - 560 091.

...PETITIONER

(BY SRI ABHINAV RAMANAND A, ADV.)

AND:

SRI S.V. RAGHAVENDRA
S/O S.V.V. SHETTY
AGED ABOUT 46 YEARS
R/AT NO. 1, SS LAYOUT
3RD STAGE, 4TH BLOCK
BASAVESHWARANAGAR
BENGALURU - 560 079.

...RESPONDENT

(BY SMT. NITHYA ABILASH, ADV., FOR
SRI PRAKASH M.H, ADV.)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO ALLOW THE INSTANT PETITION AND SET ASIDE THE IMPUGNED ORDER PASSED BY THE HONOURABLE LX ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH-61), BENGALURU IN

CRL.RP.NO.136/2021 DATED 14.10.2022 VIDE ANNEXURE-A AS WELL AS THE IMPUGNED ORDER IN C.C.NO.11878/2017 DATED 05.03.2021 PASSED BY THE HONOURABLE XXII ADDL.C.M.M., BENGALURU VIDE ANNEXURE-B IN ACCORDANCE WITH LAW.

IN CRL.P NO. 585/2023:

BETWEEN:

SRI RITESH KUMAR
S/O NANDA KUMAR
AGED ABOUT 41 YEARS
R/AT NO.506, 15TH A MAIN
2ND STAGE, BASAVESHWARNAGAR
BENGALURU - 560 068
OFFICE AT C/O FIMLY PEOPLE
PRODUCTIONS, NO.29
INCOME TAX LAYOUT
VISHWANEEDAM POST
BEHIND EAST COLLEGE
BENGALURU - 560 091.

...PETITIONER

(BY SRI ABHINAV RAMANAND A, ADV.)

AND:

SRI S.V. RAGHAVENDRA
S/O S.V.V. SHETTY
AGED ABOUT 43 YEARS
R/AT NO.1, SS LAYOUT
3RD STAGE, 4TH BLOCK
BASAVESHWARNAGAR
BENGALURU - 560 079.

...RESPONDENT

(BY SMT. NITHYA ABILASH, ADV., FOR
SRI PRAKASH M.H, ADV.)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO ALLOW THE INSTANT PETITION AND SET ASIDE THE IMPUGNED ORDER PASSED BY THE HONBLE LX ADDL. CITY CIVIL AND SESSIONS JUDGE (CCH-61) AT BENGALURU IN CRL.R.P.NO.137/2021 DATED 14.10.2022 VIDE ANNEXURE A AS WELL AS THE IMPUGNED ORDER IN C.C.NO.23352/2016 DATED 05.03.2021

PASSED BY THE HONBLE XXII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU VIDE ANNEXURE B IN ACCORDANCE WITH LAW.

IN CRL.P NO. 819/2023:

BETWEEN:

SRI RITESH KUMAR
S/O NANDA KUMAR
AGED ABOUT 41 YEARS
R/A 506, 15TH A MAIN
2ND STAGE, BASAVESHWARANAGAR
BENGLAURU - 560 068
OFFICE AT C/O FILMY PEOPLE PRODUCTINS
NO.29, INCOME TAX LAYOUT
VISHWANEEDAM POST
BEHIND EAST COLLEGE
BENGALURU - 560 091.

...PETITIONER

(BY SRI ABHINAV RAMANAND A, ADV.)

AND:

SRI S V RAGHAVENDRA
S/O S.V.V. SHETTY
AGED ABOUT 46 YEARS
R/A NO.1, SS LAYOUT
3RD STAGE, 4TH BLOCK
BASAVESHARANAGAR
BENGALURU - 560 079.

...RESPONDENT

(BY SMT. NITHYA ABILASH, ADV., FOR
SRI PRAKASH M.H, ADV.)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO SET ASIDE THE IMPUGNED ORDER PASSED BY THE HONBLE CITY CIVIL AND SESSIONS JUDGE (CCH-61) BANGALORE IN CRLR.P.NO.134/2021 DATED 14.10.2021 VIDE ANNEXURE-A AS WELL AS IMPUGNED ORDER IN C.C.NO.11876/2017 DATED 05.03.2021 PASSED BY THE XXII ACMM, BANGALORE VIDE ANNEUXRE-B IN ACCORDANCE WITH LAW.

THESE PETITIONS, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S VISHWAJITH SHETTY

ORAL ORDER

1. The dispute in the above captioned petitions is between the same parties and the question that arises for consideration in all the petitions is common, and therefore, the petitions are heard together and disposed of by this common order.

2. Heard the learned Counsel for the parties.

3. Respondent herein had initiated four separate proceedings in C.C.No.22607/2016, C.C.No.11878/2017, C.C.No.23352/2016 & C.C.No.11876/2017 before the Court of jurisdictional Magistrate at Bengaluru, against the petitioner herein for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

4. In the said proceedings, petitioner had filed applications under Section 45 of the Indian Evidence Act, with a prayer to forward the cheques in dispute to an expert for the purpose of giving an opinion with regard to the signatures and the writings found in the cheques in question. The said applications were

kept in suspended animation by the learned Magistrate vide order dated 30.12.2017 and the said order was confirmed by the Sessions Court on 19.01.2018. As against the same, petitioner had approached this Court in Crl.P.No.1122/2019, Crl.P.No.1121/2019 and connected petitions and the said petitions were allowed by this Court and the prayer made in the application filed under Section 45 of the Indian Evidence Act was allowed. Subsequently, the cheques in question were forwarded for the purpose of expert opinion and the Forensic Science Laboratory at Hyderabad, to which the cheques in question were forwarded, had given an opinion only with regard to the signatures found in the cheques in question, and therefore, a prayer was made before the learned Magistrate to forward the cheques in question to the Laboratory, for the purpose of giving an opinion with regard to the disputed handwritings found in the cheques in question. The said prayer made by the petitioner was rejected by the learned Magistrate which was confirmed by the learned Sessions Judge, and therefore, the petitioner is before this Court in these petitions filed under Section 482 of Cr.P.C.

5. Learned Counsel for the petitioner having reiterated the grounds urged in the petition, submits that this Court while allowing the earlier criminal revision petitions filed by the petitioner, has allowed the application filed under Section 45 of the Indian Evidence Act, wherein a prayer was made for securing expert opinion on the signature as well as the handwriting found in the cheques in question. However, the expert has now given opinion only on the signature in the cheques in question and not on the handwriting found in the cheques in question. Therefore, the courts below were not justified in rejecting the prayer of the petitioner for forwarding the cheques in question once again to the FSL for the purpose of giving an opinion on the handwriting found in the cheques in question.

6. Per contra, learned Counsel appearing for the respondent has argued in support of the impugned order, and submits that the expert has given an opinion that the signature found in the cheques in question belongs to the petitioner. Therefore, there is no necessity for forwarding the cheques in question once

again for the purpose of getting an expert opinion with regard to the handwriting found in the said cheques. Accordingly, she prays to dismiss the petitions.

7. It is not in dispute that the cheques in question have been issued from the account of the petitioner maintained in ICICI Bank, Bengaluru Branch, though he has disputed the signature and handwriting found in the said cheques. The expert has now given an opinion that the signature found in the cheques in question belongs to the petitioner.

8. It is trite that if cheuqe issued by the accused from the bank account maintained by him is dishonoured and if such cheque bears the signature of the said accused, then there is a presumption under Section 139 of the N.I.Act to the effect that the said cheque is issued by the accused towards discharge of legally recoverable debt, and unless, such a presumption is rebutted in the manner known to law by the accused, he would be liable to be punished for the offence under Section 138 of the N.I.Act.

9. The Hon'ble Supreme Court in the case of **BIR SINGH VS MUKESH KUMAR - (2019)4 SCC 197**, in paragraph nos.33 & 36, has observed as under:

> ***"33.*** *A meaningful reading of the provisions of the Negotiable Instruments Act including, in particular, Sections 20, 87 and 139, makes it amply clear that a person who signs a cheque and makes it over to the payee remains liable unless he adduces evidence to rebut the presumption that the cheque had been issued for payment of a debt or in discharge of a liability. It is immaterial that the cheque may have been filled in by any person other than the drawer, if the cheque is duly signed by the drawer. If the cheque is otherwise valid, the penal provisions of Section 138 would be attracted.*
>
> ***36.*** *Even a blank cheque leaf, voluntarily signed and handed over by the accused, which is towards some payment, would attract presumption under Section 139 of the Negotiable Instruments Act, in the absence of any cogent evidence to show that the cheque was not issued in discharge of a debt."*

10. In a subsequent judgment of the Hon'ble Supreme Court in the case of **ORIENTAL BANK OF COMMERCE VS PRABODH KUMAR TEWARI - 2022 SCC OnLine SC 1089**, the law laid down in Bir Singh's case supra has been reiterated.

11. From the aforesaid, it is apparent that a blank cheque issued by the accused after signing the same can be filled up by the payee mentioning the amount and other particulars. In Bir Singh's case supra, the Hon'ble Supreme Court has observed that it is immaterial that the cheque may have been filled in by any person other than the drawer, if the cheque is duly signed by the drawer. If the cheque is otherwise valid, the penal provisions of Section 138 of N.I.Act would be attracted.

12. In the case on hand, now a report is issued by the expert stating that the signature found in the cheques belongs to the petitioner who is the drawer of the cheques in question. Therefore, it is not necessary for forwarding the cheques in question once again to the expert for giving an opinion with regard to the handwritings found in the said cheques. Under the circumstances, I am of the opinion that the courts below were justified in rejecting the prayer made by the petitioner to once again forward the cheques in question for getting an opinion with regard to the handwritings found in the cheques in

question. Therefore, I do not find any merit in these petitions. Accordingly, the petitions are dismissed.

Sd/-
(S VISHWAJITH SHETTY)
JUDGE

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