HC-KAR

NC: 2026:KHC:64767
CRL.P No. 7791 of 2024

CNR: KAHC010439162024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO.7791 OF 2024

BETWEEN:

SRI. SUNIL. M. R.
S/O RAMAKRISHNA,
AGED ABOUT 32 YEARS,
RESIDING AT NO.5,
SANTHRUPTHI NILAYA, 4TH CROSS,
MUNIYAMMA BADAVANE,
DASARAHALLI MAIN ROAD,
BANGALORE NORTH TALUK,
BANGALORE - 560 024

...PETITIONER

(BY SRI. SOMASEKHARA K H, ADVOCATE)

AND:

Digitally signed by PANKAJA S
Location: HIGH COURT OF KARNATAKA

1. SRI. D. SURESH BABU
S/O LATE DORAI,
AGED ABOUT 42 YEARS,
RESIDING AT NO.205,
"SRINIVAS", 17TH MAIN ROAD,
3RD CROSS, FREEDOM FIGHTERS COLONY,
LAGGERE, BANGALORE - 560 058

2. SRI. D. MOHANASUNDARAM
S/O LATE DORAI,
AGED ABOUT 45 YEARS,
RESIDING AT NO.205,
"SRINIVAS", 17TH MAIN ROAD,
3RD CROSS, FREEDOM FIGHTERS COLONY,
LAGGERE, BANGALORE - 560 058

...RESPONDENTS

(BY SRI. SANTHOSH KUMAR M B, ADVOCATE)

THIS CRL.P IS FILED UNDER SECTION 482 OF CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 08.07.2024 IN CC.NO.310/2021 PASSED BY THE HON'BLE COURT OF THE VI ADDITIONAL SMALL CAUSES JUDGE & ADDL. CHIEF METROPOLITAN MAGISTRATE, BENGALURU CITY, WHO WAS PLEASED TO REJECT THE APPLICATION FILED UNDER SECTION 293 OF CR.P.C., READ WITH SECTION 45 OF INDIAN EVIDENCE ACT AND TO REFER THE EX.P1 AND 6 FOR EXPERT OPINION AS STATED ABOVE, IN THE INTEREST OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

In this petition, the petitioner/complainant has challenged the order dated 08.07.2024 passed by VI Addl. Judge and ACMM, Court of Small Causes, Bengaluru, (for short, 'learned Magistrate') in C.C.No.310/2021, whereby the learned Magistrate dismissed the application filed by the complainant under Section 293 of Cr.P.C. read with Section 45 of Indian Evidence Act.

2. The factual matrix of the case is, the complainant/petitioner filed a private complaint under Section 200 of Cr.P.C. against the respondents herein under Sections 138 and 142 of Negotiable Instruments Act, 1881, for

dishonour of cheque for a sum of Rs.25,00,000/-. During the course of trial, the accused disputed the signatures on the cheque in question i.e., Ex.P1 and loan agreement i.e., Ex.P6. As such, the complainant filed an application under Section 293 of Cr.P.C. read with Section 45 of Indian Evidence Act, to compare the admitted signatures of the accused in Exs.P1 and P6 with the admitted signature on vakalath, evidence affidavit and plea. However, the learned Magistrate rejected the said application vide order dated 08.07.2024. The said order has been challenged in this petition by the petitioner.

3. Heard the learned counsel for the respective parties.

4. It is submitted by learned counsel for the petitioner/complainant that accused No.2 has put forward a defence by denying the signature of accused No.2 on Ex.P1-cheque. However, on perusal of the signature of accused No.2 in Ex.P1 with his admitted signature on vakalath, evidence affidavit and plea, it appears to be one and the same, despite he put forwarded a false defence. As such, it is necessary to send the same for examination by an expert. He also submits

that the learned Magistrate has wrongly rejected the same only for the reason that an application was filed in the belated stage of arguments.

5. Learned counsel for the respondents/accused opposed the prayer of the petitioner on the ground that there is no clarity in the prayer portion of the application filed by the petitioner. Moreover, it is stated in the application that the signature on Exs.P1 and P6 has to be compared and examined, whereas Ex.P6 signed by accused No.1-brother of accused No.2, who is not a signatory to Ex.P1. Hence, he submits that the learned Magistrate has rightly dismissed the application. Accordingly, he prays to dismiss the petition.

6. I have given my anxious consideration to the submissions and perused the application, impugned order and other documents made available on record.

7. Undisputedly, respondent No.2/accused No.2 denied his signature on Ex.P1 during the course of his evidence and cross examination. In such circumstances, it is relevant for the complainant/petitioner to file necessary application to

examine the signature on Ex.P1 with the admitted signature of accused No.2 in the vakalath, evidence affidavit and plea. No doubt, the Trial Court is competent to compare the disputed signature with the admitted signature and pass appropriate orders. However, when the accused has specifically denied the signature, it would be appropriate to have the disputed signature examined with the admitted signature. Therefore, the prayer of the complainant cannot be rejected solely on the ground that the application was filed at the belated stage of arguments. The said reasoning of the Trial Court requires interference at the hands of this Court. In that view of the matter, I proceed to pass the following:

ORDER

i. The petition is ***allowed***.

ii. The order dated 08.07.2024 passed in C.C.No.310/2021 by VI Addl. Small Causes Judge and ACMM, Bengaluru, is set-aside.

iii. Consequently, the application filed by the petitioner/complainant under Section 293 of Cr.P.C. read with Section 45 of Indian Evidence Act, before the Trial Court, is allowed in part.

iv. The learned Magistrate is directed to pass appropriate orders for referring the disputed signature appearing on Ex.P1 to a scientific expert for comparison with the admitted signatures of the accused found on the vakalath, evidence affidavit and plea, and obtain his opinion.

SD/-
(RAJESH RAI K)
JUDGE

HKV
List No.: 1 Sl No.: 5