

Sri T Ramakrishna vs Sri Vasanth Kumar

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Court : Karnataka Orders

Decided On : Feb-29-2024

Judge : S Vishwajith Shetty

Appeal No. : CRL.P/1459/2024

Appellant : Sri T Ramakrishna

Respondent : Sri Vasanth Kumar

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF FEBRUARY, 2024 BEFORE THE HON'BLE MR JUSTICE S VISHWAJITH SHETTY CRIMINAL PETITION NO. 1459 OF 2024 BETWEEN: SRI T. RAMAKRISHNA S/O THIMMAIAH R/AT NO.31/1, 5TH A CROSS SUBBANNA GARDEN MARENAHALLI, VIJAYANAGAR BANGALORE - 560 040. PETITIONER (BY SRI BHARGAV G, ADV.) AND: SRI VASANTH KUMAR S/O CHELUVAIAH R/AT NO. 2149/A 8TH A MAIN, E BLOCK Digitally signed RAJAJINAGAR 2ND STAGE by B A KRISHNA KUMAR BANGALORE - 560 010. Location: HIGH RESPONDENT COURT OF KARNATAKA

(NOTICE NOT ORDERED IN R/O RESPONDENT)

THIS CRL.P FILED U/S.482 CR.P.C PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 30.08.2023 PASSED BY THE HONBLE TRIAL COURT (SCCH-6) IV ADDL.SCJ AND ACMM, BENGLAURU WHICH IS NOW PENDING BEFORE THE SCCH-24 XXII ADDITIONAL SCJ AND ACMM, BENGALURU IN C.C.NO.2382/2022 AND THEREBY ALLOW THE APPLICATION U/S.91,93 R/W SEC.311 OF CRPC IN C.C.NO.2382/2022. THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING: -2-

ORDER

1. Petitioner is before this Court challenging the order dated

30.08.2023 passed by the Court of SCCH-6 IV Addl. SCJ & ACMM, Bengaluru (now pending before the SCCH-24 XXII Addl. SCJ and ACMM, Bengaluru) in C.C.No.2382/2022 wherein application filed by petitioner under Section 91 and 93 read with Section 311 of Cr.P.C. was dismissed.

2. Heard the learned counsel for the petitioner.

3. Respondent herein has initiated proceedings against the

petitioner herein before the Trial Court for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the N. I. Act' for short). In the said case, after recording of the defence evidence was completed and when the case was posted for hearing final arguments, application under Sections 91 and 93 read with Section 311 of Cr.P.C. was filed by the petitioner with a prayer to summon the complainant to produce his Bank statement for the period from 01.01.2018 to 31.12.2019 with respect to his bank accounts at Canara Bank, Punjab National Bank, Indian Bank and also to furnish details of his PAN card and further,

direct complainant's son to furnish his marks card relating to SSLC, II PUC and also to direct Registrar Evaluation at Visvesvaraya Technology University, Belgavi to produce the Degree Certificate and score cards of Sri. Chethan Kumar C. V. This application was opposed by the respondent/complainant by filing objections. The Trial Court, has rejected the said application vide impugned order dated 30.08.2023. Being aggrieved, the petitioner, who is the accused before the Trial Court is before this Court.

4. From a perusal of the material available on record, it is

seen that the complainant has approached the Trial Court with allegation that accused had borrowed loan of Rs.3 lakhs and towards repayment of the said loan amount, he had issued the cheque in question. Accused, who has admitted borrowing money from the complainant has taken a specific defence that he had issued a self cheque for a sum of Rs.2 lakhs at the request of the complainant and the said cheque was encashed by complainant's son Sri. Chethan Kumar C. V. on 06.02.2018. It is also the defence of the accused that another sum of Rs.1 lakh was transferred to the account of the complainant from

-4- the account of his wife Smt. A. Lakshmi and thereby, the entire loan borrowed by him was repaid.

5. For the purpose of proving the aforesaid defence, the

documents which are now sought to be summoned by the accused are not required. Since the accused has taken a specific defence regarding repayment of amount, it is for him to prove the same by producing necessary documents before Trial Court. He has already led his defence evidence and the case is now at the stage of final arguments. Under the circumstances, I am of the opinion that the Trial Court was fully justified in rejecting the application. I do not find any illegality or irregularity in the order impugned which calls for interference at the hands of this Court in exercise of its power under Section 482 of Cr.P.C. Accordingly, petition is dismissed.

Sd/- JUDGE DN

