

(2012) 07 RAJ CK 0001

In the Rajasthan High Court

Case No : Criminal Miscellaneous Petition No. 1560 of 2008

Jagdish Soni

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-07-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Negotiable Instruments Act, 1881 (NI) — Section 138

Citation : (2013) 1 WLN 564

Hon'ble Judges : Nisha Gupta, J

Bench : Single Bench

Advocate : Vineet Jain, for the Appellant; Aneesh Bhurat, Public Prosecutor for the State and Mr. M.K. Garg, Advocate for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Nisha Gupta, J.—This Criminal Misc. Petition under Sec. 482, Cr.P.C. has been filed against the order 19.11.2008 whereby the revisional Court has upheld that order of the trial Court dt. 08.07.2007 whereby the application filed by the petitioner for sending the disputed cheque for hand-writing expert's opinion to the Central Forensic Science Laboratory has been rejected. The short facts of the case are that respondent No. 2 Heera Lal Jain filed a complaint against the petitioner under Sec. 138 of the Negotiable Instruments Act and regarding cheque of Rs. 4,60,000/-, the contention of the present petitioner is that the complainant has interpolated in the cheque. Originally the cheque was of Rs. 60,000/- and by adding figure "4" before figures "60,000", the cheque has been made of Rs. 4,60,000/-. When the petitioner came to know about this forgery of the complainant, he filed a complaint against the respondent and also filed an application before the trial Court to get examined the disputed cheque by the Central Forensic Science Laboratory which was rejected by the trial Court and the revision has also been rejected. Hence this misc. petition.

2. Heard learned counsel for the parties and perused the impugned orders.
3. The contention of the present petitioner is that he is objecting since beginning that there is interpolation in the cheque and figure "4" has been falsely added. He has every right to produce his evidence during the trial and by not allowing his application, the trial Court has deprived him an opportunity of rebutting the case of the complainant and reliance has been placed on Mrs. Kalyani Baskar Vs. Mrs. M.S. Sampornam, .
4. Per contra, the contention of the respondent is that admittedly the present petitioner has lodged the criminal complaint for forging the disputed cheque and during the investigation of that complaint disputed cheque has been examined by the Forensic Science Laboratory and the report is on record, hence re-examination of the same cheque is not needed. The contention of the present petitioner is that the report of the Forensic Science Laboratory is unbelievable and vague.
5. It cannot be disputed that from the inception the contention of the present petitioner is that figure "4" has been added in the cheque. The signatures have not been disputed. The criminal complaint by the present petitioner has also been lodged on the same facts and on the same set of facts, the report from the Forensic Science Laboratory has been called for. Hence re-examination is clearly not needed.
6. It is true that opportunity of rebutting the prosecution case is a valuable right of the accused but when already expert's report is on record, there is no need for sending the disputed cheque to laboratory. It has not been disputed that the Forensic Science Laboratory has opined that "4" figure in the cheque appears to be similar to that of other writing on the cheque. The law referred by the present petitioner could not help him as in the particular case, the signature on the cheque has been denied by the applicant but here the signature on the cheque has been admitted by the present petitioner and report is already on record.
7. The learned counsel for the respondent has relied on Chatar Singh vs. State of Rajasthan & Anr., 2012 (1) CJ (Cri.) 52 wherein it has been held when there is no dispute in regard to the signature, the application for sending the cheque to the hand-writing expert is not needed. In the present case, the facts suggest a step further that earlier the disputed cheque has been examined by the Forensic Science Laboratory and the report is on record. Hence there is no infirmity in the impugned order and this misc. petition is liable to be dismissed. In view of the above, this misc. petition is hereby dismissed.