

This order arises out of an application filed by the learned Sr.APP under Section 242(2) of Cr.P.C seeking permission to produce the certified copies obtained in C.C.No.810/2016 on the file of Additional Civil Judge and JMFC, Bangarpet in the interest of justice.

2. The counsel for accused No.1 filed objections to oppose the application on the grounds that the proposed documents are not referred in the charge sheet and they are not relevant to decide the case. The prosecution has filed the belated application to fill up lacuna, which is not permissible in the eye of law. If the application is allowed it will cause injustice to the accused and if the same is rejected no hardship or injustice would be cause to the prosecution. Hence, the application is liable to be rejected.

3. During the argument both side have reiterated the contents of the application and objections.

4. The point that arises for the consideration of the court is as under;

Whether the prosecution has made out any grounds to allow the application?

5. Perused the records, the above point is answered in **Affirmative** for the following:

REASONS

6. In Para No.14 of the complainant it is pleaded that the complainant has received a summons from the Additional Civil Judge and JMFC, Bangarpet in C.C.No.810/2016, on verification of the case records and came to know that one N.V. Ashwathanarayana Reddy i.e., the accused No.2 has filed a private complaint in P.C.R.No.85/2016 for offence punishable under Section 138 of Negotiable Instruments Act alleging that the complainant has approached him for hand loan on 05.02.2016 for Rs.9,80,000/- for the purpose of purchasing of site, legal and family necessities and accordingly he paid the said sum to the complainant on 05.03.2016 and for repayment she has issued a post dated cheque bearing No.770397 for Rs.9,80,000/- dated 05.05.2016 drawn on Citi Bank, etc., in favour of the accused No.2 and by seeing the alleged cheque and found that the signature of the complainant was forged on the cheque and hence the accused No.1 and 2 have conspired together, forged the signature of the complainant on the cheque by impersonation and created the false story for cheating, wrongful lose to the complainant and wrongful gain to accused No.1 and 2 and the accused No.1 has committed the offence of criminal breach of trust by misusing the cheque belongs to the complainant for the purpose of cheating the complainant and thereby the

accused No.1 and 2 have committed the serious offences of causing wrongful gain to them, causing wrongful lose to the complainant, cheating, impersonation, criminal breach of trust, forgery, criminal conspiracy which are punishable under Sections 415, 416, 417, 418, 419, 420, 403, 406, 409, 463, 465, 467, 468, 469, 470, 471, 120-B of IPC.

7. Therefore, in the complaint itself it is specifically pleaded about the proposed documents. In fact, the complainant has filed the true copy of complaint, cheque and bank endorsement which were received by her from the Additional Civil Judge and JMFC Court at Bangarpet. Now the complaint seeks permission to produce the documents which were obtained in CC No.810/2016 on the file of said court as pleaded in the Paragraph No.14 of the complaint. Therefore, there is no surprise in respect of the proposed documents. On perusal of the documents, this court is of the considered opinion that these documents are material to decide the facts involved in the case. Apart from that the burden is on the complainant to prove the contents of the documents are relevant to decide the material facts involved in the case. Moreover, the accused is having ample opportunities to defend his case in the cross examination of PW-1. In view of these reasons the objections raised on behalf of accused No.1 are not sustainable either in law or on facts of the case.

Thus, the above point is answered in the **Affirmative** and I proceed to pass the following;

ORDER

Application filed by the prosecution under Section 242(2) of Cr.P.C is allowed.

Accordingly, the prosecution is permitted produce the documents obtained in CC No.810/2016 on the file of Additional Civil Judge and JMFC, Bangarpet and mark the same in the evidence as prayed for.

(Dictated to the stenographer directly on computer, typed by him, corrected and then signed and pronounced by me in the open court on this the 9th day of November 2022).

(Parashuram F. Doddamani)
III Additional Chief Metropolitan Magistrate,
Bengaluru.