

DATED: 20.11.2020

C.C.No.41/2009

ORDERS ON APPLICATION FILED U/SEC.96 OF CR.P.C.

The accused has filed application under Section 96 of Cr.P.C. praying this Court to issue summons to, The Manager, Karnataka Vikas Grameen Bank, Mudhol Branch, to produce the documents which are provided at the time of opening the bank account pertaining to the account bearing No.1548 with respect to the original cheque.

2. In support of the application the accused has filed his sworn affidavit stating that, the accused has not issued cheque to the complainant and the accused is not having any account at Karnataka Vikas Grameen Bank, Br.Mudhol. It is also stated that, the said cheque is not belonging to him and the complainant is also not known to him and he has not done any transaction with the complainant. Accused has also denied the signature at the cheque. Therefore, for better adjudication of the matter it is just and necessary to call for the documents as prayed for from the Karnataka Vikas Grameen Bank, Br.Mudhol with regard to the account bearing No.1548. If the present application is not allowed, the accused will be put to irreparable loss and hardship. Therefore, prayed to allow the present application.

3. The counsel for the complainant has filed objections to the present application stating that, accused has not issued reply to the notice dated 01.10.2008. It is stated that, for the first time the accused has taken defence dispecting the

signature in the cross examination of the complainant. Now with an intention to mislead the Hon'ble Court the accused has filed the present application. It is stated that, earlier the accused has filed application under Section 311 of Cr.P.C. dated 16.11.2012, that itself shows that only to harass the complainant and to cause delay in the proceedings the accused is filing such applications. The contents of the affidavit are false and there are no proper and valid grounds to allow the present application. Hence, prayed to reject the application.

4. Heard and perused the entire material placed on record.

5. The following point arises for my consideration.

Whether the applicant/accused has made out sufficient grounds to allow the present application filed under Section 96 of Cr.P.C.?

6. My answer to the above point is in the Negative for the following:

REASONS

7. On perusal of the contents of the application it reveals that instead of filing application under Section 91 of Cr.P.C. the accused has filed application under Section 96 of Cr.P.C. Hence, in order to adjudicate the matter there is no bar to consider the application which is filed mentioning a wrong provision.

8. By way of present application accused intends the Court go summon the document as prayed for. Section 91 of Cr.P.C. empowers the Court with a discretionary power either to direct a party in whose possession or power a document or other thing is believed to be requiring him to produce the same before the Court. In order to invoke Section 91 of Cr.P.C., the first thing that has to be satisfied by the person invoking Section 91 is that, the document which is sought by the applicant should be necessary or it is desirable for the purpose of trial.

9. In the present case on hand, the accused without making any effort to obtain the documents from the bank has filed this present application seeking the Court to summon the documents. Moreover, accused has nowhere pleaded or explained why those documents are necessary for adjudication of the present case. This Court is not an post office to deliver the documents at the whims of the parties. A party who seeks the Court to summon the documents should be cautious and diligent in putting before the Court that why those documents are necessary for the present case to adjudicate the matter. In the absence of any such pleadings, or explanation by the accused, the present application filed by the accused deserves to be dismissed. Accordingly, I answer the point raised for consideration in the negative and I proceed to pass the following:

ORDER

The application filed under Section 96 of Cr.P.C. by the applicant / accused is hereby rejected.

For arguments

Call on: 24.12.2020

**I Addl.Civil Judge & J.M.F.C.,
Vijayapura**

