



Crl.R.C.(MD).No.611 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2026

CORAM

THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Crl.R.C.(MD).No.611 of 2025

and

Crl.M.P.(MD).No.6750 of 2025

L.Periyasamy

... Petitioner

Vs.

M.Selvamalar

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 read with 401 of Criminal Procedure Code (Section 438 r/w 442 of BNSS), to call for the records pertaining to the order dated 05.04.2025 made in Crl.M.P.No.1729 of 2024 against C.C.No.286 of 2019 on the file of the learned District Munsif cum Judicial Magistrate, Singampunari and set aside the same by allowing the above Revision Petition.

For Petitioner : Mr.V.Muthusamundeeswaran

For Respondent : Mr.A.Shajahan

ORDER

The present Criminal Revision Case is filed challenging the order passed by the District Munsif cum Judicial Magistrate, Singampunari in Crl.M.P.



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No.1729 of 2024 in C.C.No.286 of 2019 dated 05.04.2025, whereby, the request of the petitioner under Section 39(1) of BSA for expert opinion to see if the signature contained in the subject cheques were in fact that of petitioner, was rejected.

2. Trial Court had rejected the above request on the premise that petitioner, in reply to the legal notice issued, had not expressly stated that the signature in cheque leaf does not belong to him. Trial Court also records that in the statement recorded under Section 313 of Cr.P.C, petitioner has not stated anywhere that the signature does not belong to him. Relevant portion of impugned order is extracted hereunder:

“4(6). மேற்படி முன்தீர்ப்புகள், மனு மற்றும் எதிருரை மற்றும் பிரச்சனைக்குரிய ஆவணமான காசோலையை பரிசீலனை செய்கையில், இவ்வழக்கின் புகார்தாரர் மனுதாரருக்கு தன்னிடம் வாங்கிய காசோலை தொகையை வழங்கும்படி சட்ட அறிவிப்பு அனுப்பியதற்கு காசோலையில் உள்ள கையெழுத்து தன்னுடையது இல்லை என்று எவ்வித பதிலும் அனுப்பாமலும், இந்நீதிமன்றத்தில் மனுதாரரிடம் இவ்வழக்கு குறித்து 313 சி.ஆர்.பி.சி-யின் கீழ் வினவப்பட்ட போதும் தான்கடன் வாங்கவில்லை என்று மட்டுமே பதில் அளித்துள்ளார். இவ்வழக்கு எதிரி தரப்பு விசாரணைக்கு போடப்பட்டுள்ள நிலையில் காசோலையில் உள்ள கையெழுத்து மற்றும் காசோலையில் பூர்த்தி செய்யப்பட்டுள்ள எண்ணும், எழுத்தில் உள்ள கையெழுத்து தன்னுடையது இல்லை என்று புதிய சங்கதியை கூறி இம்மனுவை தாக்கல் செய்திருப்பது ஏற்று கொள்ளும் விதமாக இல்லை. மேற்படி



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காசோலை சம காலத்தில் எழுதப்பட்ட ஆவணங்கள் எதுவும் மனுதாரர் கையெழுத்துடன் ஒப்பீட்டு பார்க்க தாக்கல் செய்யப்படவில்லை என்பதால் மேற்படி ஆவணம் தடயவியல் துறைக்கு கையெழுத்தை ஒப்பீட்டு பார்க்க அனுப்புவதற்கு உகந்தது அல்ல என்று இந்நீதிமன்றம் முடிவு செய்கிறது.”

3. Learned counsel for petitioner would submit that the impugned order suffers from non-application of mind inasmuch as in the reply filed by petitioner, petitioner has stated that the cheques issued to Bank were incomplete and it was never issued to respondent herein, as could be seen from the following statement:

“அதன்பின்பு வங்கி கடன் தொகைக்கு ஆதரவாக ஐந்து காசோலைகள் கொடுக்க வேண்டுமென நம்கட்சிக்காரரிடம் கருப்பசாமியும் கணேசனும் ஐந்து பூர்த்தி செய்யப்படாத காசோலைகளை பெற்றுக் கொண்டுள்ளனர்.”

4. Learned counsel would also submit that in 313 Cr.P.C statement, it has been expressly stated by petitioner that he is illiterate and that the signature contained in the subject cheques do not belong to him, as could be seen from the following:

“மேற்படி செல்வராஜ் அவர்கள் மூலம் வழக்கில் காட்டப்பட்டுள்ள காசோலையில் உள்ள கையொப்பம் என்னுடையது தானா என்பதையும் நான் காசோலையை நேரில் பார்த்தால் தான் சொல்ல முடியும், ஏனெனில் எனக்கு எழுதப் படிக்கத் தெரியாது ...



மேலும் அதில் உள்ள கையொப்பம் என்னுடையது இல்லை.
ஏனெனில் எனக்கு படிக்கவே தெரியாது.”

5. Learned counsel for the respondent would place reliance upon the judgment of the Supreme Court in the case of ***Bir Singh Vs. Mukesh Kumar*** reported in ***(2019) 4 SCC 197*** in support of his contention that the impugned order does not warrant any interference.

6. A reading of judgment in *Bir Singh's* case would show that even if a blank cheque leaf is issued, voluntarily signed and handed over by the accused towards some payment, then presumption under Section 139 of the Negotiable Instruments Act would get attracted and in the absence of any cogent evidence to show that cheque was not issued in discharge of a debt, such presumption would remain. Importantly, in the said case, it was also found as a matter of fact that it is not in dispute that the accused has signed the cheque. However, in the present case, the thrust of petitioner's arguments on facts was that petitioner had neither issued much less signed subject cheques. Therefore, the facts of the case relied upon by learned counsel for respondent and the case pleaded by petitioner are factually different.



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7. Importantly, it appears that there is a complete misconception of what is contained in statement under Section 313 Cr.P.C inasmuch as Trial Court proceeds on the basis that petitioner had not disowned his signature, whereas, this Court finds that in 313 Cr.P.C statement, the petitioner had expressly stated that the signature does not belong to him.

8. In that view of the matter, this Court finds that the impugned order suffers from complete misdirection and hence, it is only just that Trial Court is directed to reconsider the petition filed by petitioner afresh after affording a reasonable opportunity of hearing to petitioner and respondent and to pass orders afresh in accordance with law. Accordingly, the impugned order passed by the District Munsif cum Judicial Magistrate, Singampunari in Crl.M.P. No.1729 of 2024 in C.C.No.286 of 2019 dated 05.04.2025 is set aside and Trial Court is directed to reconsider the petition filed by petitioner afresh after affording a reasonable opportunity of hearing to petitioner and respondent and pass orders afresh in accordance with law. It is made clear that this Court has not expressed anything on the merits except finding that the impugned order suffers from infirmity in appreciating the statement contained in 313 Cr.P.C. Trial Court shall endeavour to dispose of the petition within a period of two months from the date of receipt of a copy of this order.



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9. With the above observations, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To
The District Munsif cum Judicial Magistrate,
Singampunari.



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MOHAMMED SHAFFIQ, J.

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