

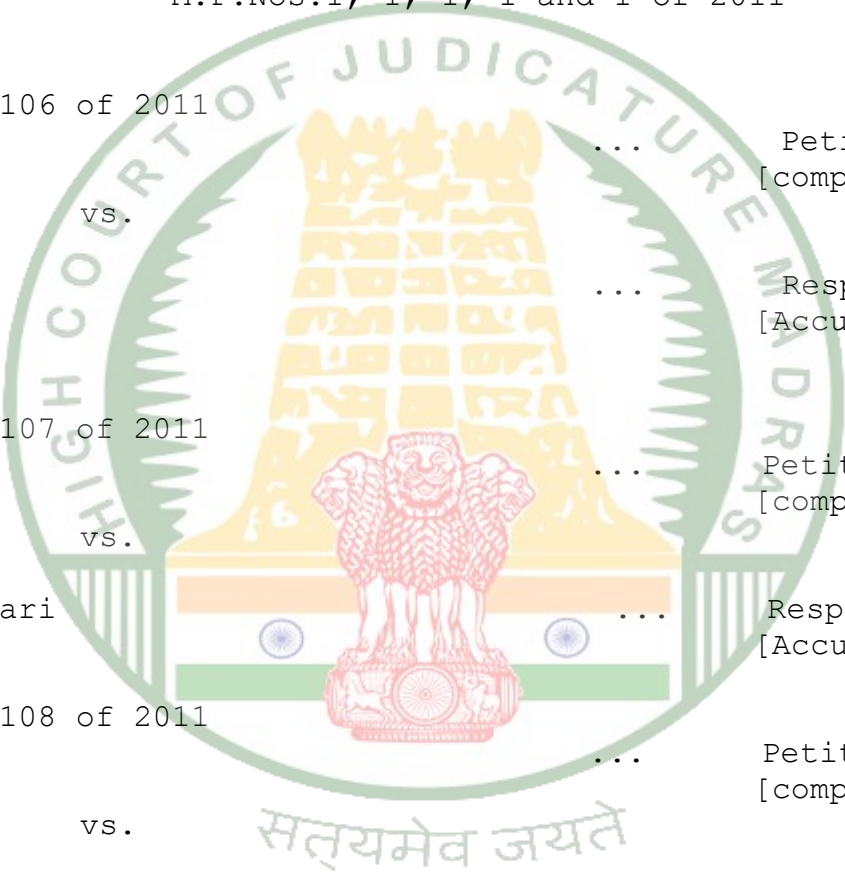
IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal R.C. Nos.106, 107, 108, 109, 110 of 2011
and
M.P.Nos.1, 1, 1, 1 and 1 of 2011



The seal of the High Court of Judicature at Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The gopuram is flanked by two green palm trees. The entire emblem is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE" are written in a semi-circle at the top, and "MADRAS" is written at the bottom. Below the emblem, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

CRL RC No.106 of 2011 R.Kumar	...	Petitioner [complainant].
vs.		
S.Krishnan	...	Respondent [Accused].
CRL RC No.107 of 2011 R.Kumar	...	Petitioner [complainant].
vs.		
K.Gunasundari	...	Respondent [Accused].
CRL RC No.108 of 2011 R.Kumar	...	Petitioner [complainant].
vs.		
K.Sivakumar	...	Respondent [Accused].
CRL RC No.109 of 2011 R.Kumar	...	Petitioner [complainant].
vs.		
K.Sivakumar	...	Respondent [Accused].

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CRL RC No.110 of 2011

R.Kumar

...

Petitioner

[complainant].

vs.

K.Gunasundari

...

Respondent

[Accused].

Criminal Revision Case No.106 of 2011 is filed under Sections 397 and 401 of the Code of Criminal Procedure filed against the order of the learned Judicial Magistrate No.II, Mettur Dam, dated 16.8.2010 in CMP No.2458 of 2010 in STC No.92 of 2009.

Criminal Revision Case No.107 of 2011 is filed under Sections 397 and 401 of the Code of Criminal Procedure filed against the order of the learned Judicial Magistrate No.II, Mettur Dam, dated 16.8.2010 in CMP No.2459 of 2010 in STC No.100 of 2009.

Criminal Revision Case No.108 of 2011 is filed under Sections 397 and 401 of the Code of Criminal Procedure filed against the order of the learned Judicial Magistrate No.2, Mettur Dam, dated 16.8.2010 in CMP No.2455 of 2010 in STC No.123 of 2009.

Criminal Revision Case No.109 of 2011 is filed under Sections 397 and 401 of the Code of Criminal Procedure filed against the order of the learned Judicial Magistrate No.II, Mettur Dam, dated 16.8.2010 in CMP No.2456 of 2010 in STC No.124 of 2009.

Criminal Revision Case No.110 of 2011 is filed under Sections 397 and 401 of the Code of Criminal Procedure filed against the order of the learned Judicial Magistrate No.II, Mettur Dam, dated 16.8.2010 in CMP No.2457 of 2010 in STC No.409 of 2009.

For Petitioner in all
the above cases : Mr.Thenrajan
for M/s.T.Muruganantham

For Respondent in all
the above cases : Mr.A.Sundaravadhanam

COMMON ORDER

The petitioners are the complainants in respective STC Nos.92 of 2009, 100 of 2009, 123 of 2009, 124 of 2009 and 409 of 2009 filed under section 138 of the Negotiable Instruments Act,1881 before the learned Judicial Magistrate No.II, Mettur Dam.

2. The respondents/accused have filed a petition under section 45 of the Indian Evidence Act before the trial Court seeking to send the disputed cheque to a handwriting expert to compare the writing and the signature found in the disputed cheque with the admitted

writing and signature of the accused/respondents.

3. After considering the facts and circumstances of the case and the arguments advanced on both sides, the trial Court allowed the aforesaid cases filed by the accused and permitted to take steps to produce handwriting expert to compare the handwriting and signature found in the cheques in question. Aggrieved over the said order of the trial Court, the present Criminal Revision Cases have been filed.

4. Heard the learned counsel appearing for the parties.

5. As rightly pointed out by the learned counsel appearing for the petitioners, the complainants and accused are closely related and the transaction had arisen out of family affairs and only in two cases, namely, STC Nos.123 of 2009 and 124 of 2009, cheques were returned by the bank stating that 'drawer's signature is different from the one in their record. The accused in his reply notice has not denied such allegation.

6. Considering the facts and circumstances of the case and the arguments advanced, this Court is inclined to set aside the impugned order of the trial Court for the reason that the parties are close relatives and the cheques given in certain cases have been accepted and substantial amount has also been paid by the accused at the time of mediation and the cheques have been returned only in two cases, namely, STC Nos.123 and 124 of 2009 wherein the signature of cheques have been disputed by the bank.

7. Accordingly, the impugned common order dated 16.8.2010 is set aside and the Criminal Revision Cases are allowed. The connected Miscellaneous Petitions are closed. Liberty is given to the respondents to seek for any clarification at the time of cross-examination in respect of the cases in STC Nos.123 and 124 of 2009 wherein the signature of cheques have been disputed by the bank. The trial Court is directed to dispose of the cases at an early date.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

asvm

To

1] The Judicial Magistrate No.II,
Mettur Dam,

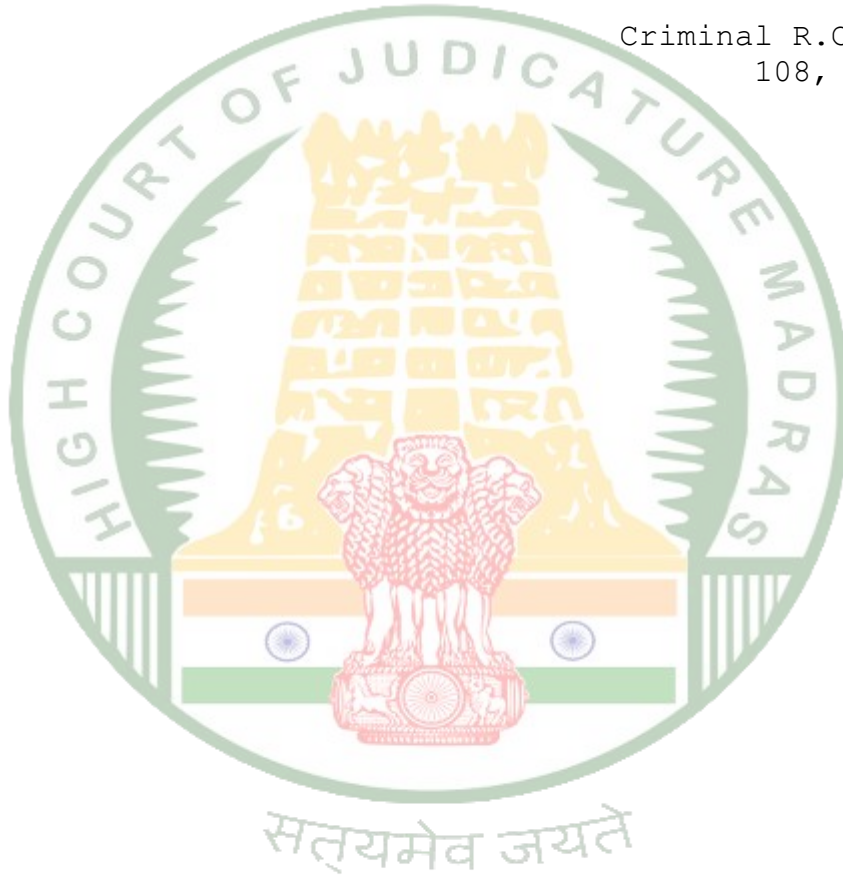
2] -do- through the Chief Judicial Magistrate, Salem.

+1cc to Mr.T.Murugananthan, Advocate SR.No.31870

+1cc to Mr.A.Sundaravadanam, Advocate SR.No.31935

Criminal R.C. Nos.106, 107,
108, 109, 110 of 2011

cnr[co]
gp/8.7.15



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