

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.05.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

Criminal Revision Nos.485 and 486 of 2015
& M.P.No.1 of 2015

Balaraja : Petitioner in both cases

Vs

Valarmathi : Respondent in both cases

Prayer : Criminal Revisions are filed under section 397 r/w section 401 of Criminal Procedure Code, against the order passed in Crl.M.P.Nos.2010 and 2011 of 2015 in STC No.62 of 2012 on the file of the Judicial Magistrate, FTC-II, Erode, dated 10.04.2015.

For Petitioner : Mr.S.Kaithamalai Kumaran

COMMON ORDER

These revisions arise out of the orders passed by the learned Judicial Magistrate (FTC No.2), Erode, in Crl.M.P.Nos.2010 and 2011 of 2015, dated 10.04.2015.

2.The applications filed by the petitioner under section 45 of the Indian Evidence Act and under section 91 of Cr.P.C were dismissed by the learned Judicial Magistrate, Erode. Aggrieved by the said orders, the present revisions are filed.

3.The brief facts of the case are as follows:-

The respondent had filed a private complaint in STC No.62 of 2012 before the learned Judicial Magistrate, Erode against the petitioner filed under sections 138 and 142 of Negotiable Instruments Act alleging that he had borrowed a sum of Rs.7,50,000/- from the complainant on 23.11.2011 and the cheque issued to discharge the liability was dismissed as "Insufficient funds" and therefore, he is liable to be prosecuted.

4.The respondent/complainant has further alleged that on 04.01.2012, she issued a notice for the dishonour of the cheque and the accused received the same on 06.01.2012, however he failed to pay the cheque amount nor issued any reply.

5.Heard Mr.S.Kaithamalai Kumaran, learned counsel for the petitioner and perused the records.

6.It is seen that on 16.05.2012, the chief examination of PW1 was over and she was cross examined by the accused on 03.07.2012 and on 10.07.2012, the accused filed a memo to examine one Senthil and Selvakumar as defence witnesses to establish his money transaction with the complainant. Notices sent to the witnesses were returned as "No such Addressee" and thereafter, the accused filed this applications on 20.03.2015 alleging that his signature was forged and PW1 has admitted in her cross examination that the cheque was filled by utilising different ink and therefore, the opinion of the handwriting expert is necessary and for which, account opening form, specimen signature card and sample of ten cheques of the accused have to be sent for from his banker, namely State Bank of India, Erode Town.

7.The applications were resisted by the complainant stating that they were filed with a view to drag on the proceedings and there is no merit in those applications.

8.The learned Judicial Magistrate, having observed that the accused has not issued reply for the notice issued under section 138 of the Negotiable Instruments Act and he has adopted dilatory tactics under the guise of examining defence witnesses and therefore, in the interest of justice, the present applications have to be rejected.

9.Considering the above facts, I do not find any reason to interfere with the orders passed by the learned Judicial Magistrate, Erode and there is no legality or irregularity in the orders impugned in these revisions. In the result, both the revisions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To,

1.The Judicial Magistrate,
(FTC No.2), Erode.

2.do thro'The Chief Judicial Magistrate,
Erode.

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