

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.529 of 2015

and

M.P.No.1 of 2015

V.Arulselvan .. Petitioner
vs
V.Ezhilvannan .. Respondent

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the order dated 27.04.2015 passed by the learned Judicial Magistrate (Fast Track Court), Ambattur in C.M.P.No.315 of 2015 in STC No.150 of 2014.

For Petitioner:M/s.S.Sridevi

ORDER

This Criminal Revision Case is preferred as against the dismissal order dated 27.04.2015 passed by the learned Judicial Magistrate (Fast Track Court), Ambattur in C.M.P.No.315 of 2015 in STC No.150 of 2014 in dismissing the petition filed by the petitioner to send the disputed cheque for expert opinion.

2. The petitioner is the accused in S.T.C. No. 150 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court, Ambattur filed by the respondent herein under Section 138 of the Negotiable Instruments Act. According to the respondent, the petitioner/accused, in order to discharge his legally enforceable debt issued a cheque for a sum of Rs.1,50,000/- vide cheque No.226745 dated 30.03.2013. On presentation, the said cheque was dishonoured for the reason 'No such account on 02.04.2013'. Hence, a statutory notice dated 17.04.2013 was issued, which was received by the petitioner/accused on 22.04.2013. Since there was no response, the complaint under Section 138 of the Negotiable Instruments Act was filed by the respondent.

3. Pending S.T.C.No.150 of 2014, the petitioner/accused filed a Petition under Section 45 of the Indian Evidence Act in Crl.MP.No.315 of 2015 contending that he has not issued the disputed cheque and that he is not holding any account in the State Bank of India, Ambattur Industrial Estate Branch. Therefore, to find out the same, the age of the ink in the payee's name and other details in the cheque in dispute has to be ascertained through an expert. Hence, the petitioner prayed the court below to send the cheque in question to finger print experts specifically to ascertain the age of the signature in the cheque in question. The Court below dismissed the petition on the following grounds:

(i) that which admitted signature has to be sent for expert opinion along with the disputed signature;

(ii) that the petition has been preferred only after a period of one year;

(iii) that when notice was issued, no reply was sent by the petitioner, objecting the issuance of the said cheque and also the petitioner did not prefer any police complaint; and

(iv) further only in order to drag on the proceedings, the said petition has been preferred.

4. I have heard the learned counsel for the petitioner and perused the order passed by the Court below.

5. As rightly pointed out by the Court below, the petitioner has not preferred the said petition at the earliest point of time and only to drag on the proceedings, the same has been filed. Moreover, the petitioner also has not enclosed along with the petition, which admitted signature has to be sent along with the disputed signature for expert opinion.

6. Further, this Court in the following decisions,

(i) (2010 (1) CTC 424, [R. Jagadeesan vs. N. Ayyasamy and another],

(ii) Unreported decision of this Court CrI.R.C. (MD) No. 265 of 2012, dated 18.07.2012

(iii) 2012(4)MLJ(CrI)586 [Babu vs. Vinayagam] had repeatedly held that there is no such facility available in India, especially in Tamil Nadu to compare the age of the ink.

7. For all the above stated reasons, I do not find any reason to interfere with the reasoned order passed by the Court below. Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate, Fast Track Court
Ambattur.

CrI.R.C.No.529 of 2015

KJI(CO)

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