

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. R.C. Nos. 617 and 618 of 2015

Janaki ... Petitioner in both Crl.R.Cs/
Petitioner Accused

Versus

V.Vivekanandhan ... Respondent in Crl.R.C. No.617
of 2015/Respondent Complainant

R.Chinnasamy ... Respondent in Crl.R.C. No.618
of 2015/Respondent Complainant

Criminal Revision Cases filed under Sections 397 and 401 of the Criminal Procedure Code, against the orders dated 03.06.2015 passed in C.M.P.Nos.1578 and 3009 of 2015 in S.T.C.Nos.288 and 453 of 2012 on the file of the Judicial Magistrate, Fast Track Court No.II, Erode.

For Petitioner : Mr.M.Guruprasad
in both Crl.R.Cs.

COMMON ORDER

The petitioner/accused is alleged to have borrowed a sum of Rs.4,00,000/- in each case from the respondents/complainants respectively and issued cheques to the respondents. When the respondents presented the cheques for collection, the same returned with an endorsement "Opening Balance Insufficient". After issuing statutory notices, the respondents/ complainants filed a complaint under Section 138 of Negotiable Instruments Act, which was taken on the file of the Judicial Magistrate, Fast Track Court No.II, Erode, in S.T.C.Nos.288 and 453 of 2012. The petitioner, after receipt of summons, entered appearance and disputed the signature made in the alleged cheques. She filed petitions under Section 45 of Evidence Act in C.M.P.Nos.1578 and 3009 of 2015 before the Trial Court seeking to compare the signature in the disputed cheques and the same were dismissed by the Trial Court on three grounds, viz., firstly, the accused has not sent any reply to the statutory notices; secondly, while questioning under Section 313 Cr.P.C., the accused has not denied her signature; and thirdly, the accused has not produced any document containing admitted signature to be compared

with the disputed signature. Aggrieved against the same, the petitioner filed the present Criminal Revision Cases.

2. Mr.M.Guruprasad, learned counsel appearing for the petitioner would contend that at the earliest point of time, when the evidence was let in, she has stated that it is a false case and it is not necessary for her to elaborate her defence at that stage. He would further contend that mere consent given by the accused for referring the matter to Lok Adalat does not mean the accused has admitted the signature in the cheques and also admitted her liability.

3. Heard the learned counsel appearing for the petitioner. By consent, both Criminal Revision Cases are taken up for final disposal at the stage of admission itself.

4. The conduct of the party, i.e., accused has to be taken note of. First of all, if the accused wants to deny that the signature found in the cheques is not that of her, the earliest point of time to deny would be at the time of issuance of statutory notice, for which, admittedly, the accused has not given reply. Secondly, it is seen that while the accused was questioned under Section 313 Cr.P.C. also, she has not specifically stated that the signature in the cheques is not that of her. Without there being any denial at that point of time atleast, later on, she cannot deny that the signature found in the cheques is not that of her. Further, it is seen that before the Trial Court, with the consent of both parties, the matters were referred to Lok Adalat. Though, as pointed by the learned counsel for the petitioner/accused, mere consent given by the accused for referring the matter to Lok Adalat does not mean the accused has admitted the signature in the cheques and also admitted her liability, but, the fact remains that the conduct of the party has to be definitely taken into consideration, especially, the time at which, the accused has denied that the signature in the cheques is not that of her, it is admittedly only at the time of trial. Hence, I do not find any reason to interfere with the reasoned orders passed by the Trial Court. These Criminal Revision Cases are dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS IV)

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Sub Assistant Registrar

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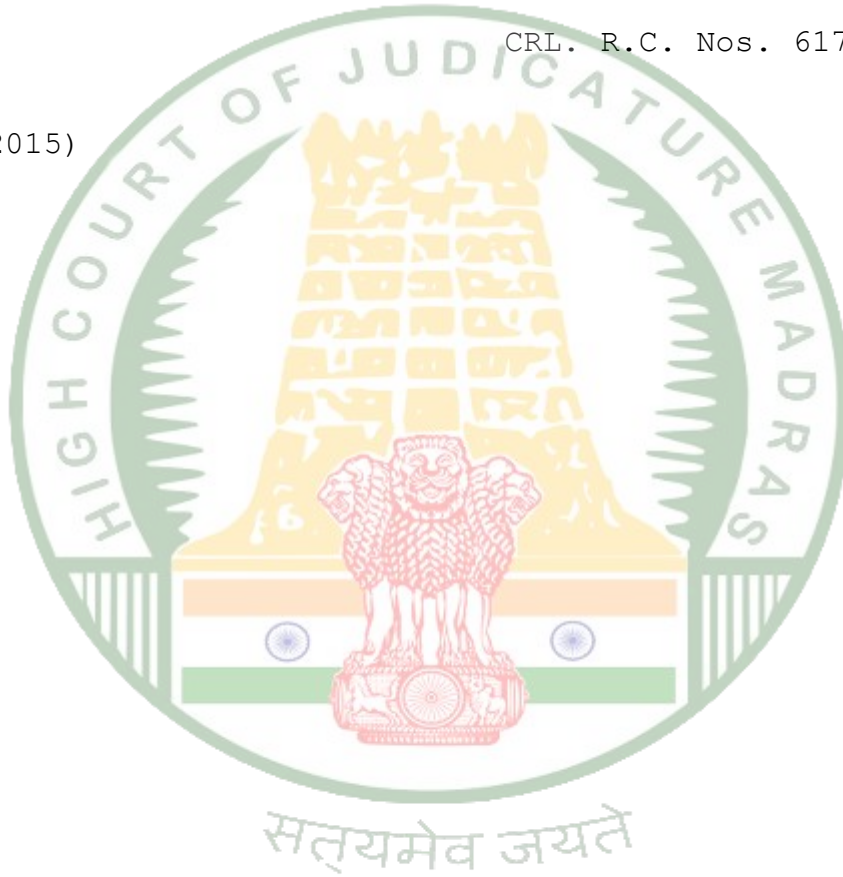
1.The Judicial Magistrate,
Fast Track Court No.II,
Erode.

2.-do- Through The Chief Judicial Magistrate,
Erode.

+2cc's to Mr.M.Guruprasad, Advocate, S.R.No.31428 & 31429

CRL. R.C. Nos. 617 and 618 of 2015

UG(CO)
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