

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.317 of 2013
and
M.P.No.1 of 2013

Ramasamy

... Petitioner

vs

Saravana Kumar

... Respondent

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the order dated 14.12.2012 passed in Crl.M.P.No.7562 of 2012 in C.C.No.35 of 2012 on the file of the Judicial Magistrate No.1, Namakkal.

For Petitioner : Mr.R.Rajesh

ORDER

This Criminal Revision Case is preferred as against the dismissal order dated 14.12.2012 passed by the learned Judicial Magistrate No.1, Namakkal in Crl.M.P.No.7562 of 2012 in C.C.No.35 of 2012 in dismissing the petition filed by the petitioner to send the Cheque for expert opinion.

2. The petitioner is the accused in C.C.No.35 of 2012 on the file of the learned Judicial Magistrate No.1, Namakkal, filed by the respondent herein under Section 138 of the Negotiable Instruments Act. According to the respondent, the petitioner/accused borrowed a sum of Rs.1,50,000/- from him on 07.09.2011 and in order to repay the same, he had issued a cheque for a sum of Rs.1,50,000/- vide cheque No.446521 dated 05.12.2011. On presentation, the said cheque was dishonoured for the reason 'funds insufficient'. Hence, a statutory notice dated 21.12.2011 was issued, which was received by the petitioner/accused on 27.12.2011. However, he has not sent any reply to the said notice. Since there was no response, the complaint under Section 138 of the Negotiable Instruments Act was filed by the respondent.

3. Pending C.C.No.35 of 2012, the petitioner/accused filed a Petition under Section 45 of the Indian Evidence Act in Crl.MP.No.7562 of 2012 contending that the complainant is a stranger to him and there is no need to issue a cheque to him and that the

signature found in the cheque was a forged one. Therefore, in order to verify the genuineness of the signature, the cheque in question has to be sent to the handwriting expert.

4. The Court below dismissed the CrI.M.P.No.7562 of 2012 holding that the petitioner has not utilized the opportunities given earlier without any reasons. The Court below further stated the petition has been filed belatedly and there is no bona fide in the contention urged on behalf of the petitioner. Accordingly, the Court below refused to grant the relief prayed for by the petitioner.

5. I heard the learned counsel for the petitioner and perused the records.

6. Though legal notice has been sent to the petitioner/accused, he has not given any reply denying his signature at an earlier stage. Even at the time of examination u/s 313 of Cr.P.C., he has not denied his signature. Therefore, it is clear that the present petition has been filed in order to drag on the proceedings and he successfully dragged the proceedings from the year 2012. Further, the Court below has clearly stated that there is no bonafide in filing the application.

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. It is open to the petitioner to let in evidence as are available to him to disprove the complaint filed by the respondent/complainant herein before the court below.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. Judicial Magistrate No.1,
Namakkal

2. The Public Prosecutor,
Madras

CrI.R.C.No.317 of 2013

SVI (CO)
CA(08/07/2015)