

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2015

CORAM

THE HON'BLE MR. JUSTICE R.S.RAMANATHAN

CrI.O.P.No.22725 of 2009
and
M.P.No.1 of 2009

1.M/s.Mohan & Co.,
Venkateswara Sago Factory by its
Managing Partner, P.Mohan

2.P.Mohan
3.M.Jayanthi

...Petitioners

vs.

P.K.Subramaniam

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the record and set aside the order dated 19.8.2009 made in Criminal Revision Petition No.6 of 2009 on the file of the Principal Sessions Court, Namakkal confirming the order dated 26.3.2009 made in C.M.P.No.563 of 2009 in STC.No.1383 of 2007, on the file of the Judicial Magistrate, Rasipuram.

For Petitioners : Mr.T.Dhanyakumar

For Respondent : Mr.R.Karthikeyan

O R D E R

This petition is filed by the petitioners, who are arrayed as the accused 1 to 3 in STC.No.1383/2007 on the file of the Judicial Magistrate, Rasipuram, Namakkal District. The respondent filed private complaint under Section 138 of the Negotiable Instruments Act, 1881 and in that, the petitioners filed petition under Section 45 of the Evidence Act to send the disputed cheque for comparing the

signature by stating that the second petitioner did not sign the cheque and the same has been stated in the reply also. The said petition was dismissed by the learned trial Judge and the same was challenged in CrI.RC.No.6/2009 and the learned Principal Sessions Judge, Namakkal dismissed the revision, confirming the order passed in CrI.M.P.No.563/2009 by the learned Judicial Magistrate, Rasipuram. Aggrieved by the same, this petition is filed.

2. The learned counsel for the petitioners submitted that the petitioners have denied the signature in the reply and also in the cross-examination and in these circumstances, the Courts below ought to have considered the request of the petitioners for comparing the signature found in the cheque by an expert.

3. The learned counsel for the respondent/complainant submitted that petition under Section 482 CrPC is not maintainable as the petitioners have already filed revision before the learned Principal Sessions Judge, Namakkal. He further submitted that the petitioners without submitting any contemporaneous document wanted the cheque to be compared with lease deed alleged to have been executed by the second petitioner in the year 2008 and the same was rightly considered by the Courts below and dismissed the petition.

4. According to me, for comparing the signature, party has to produce contemporaneous document which came into existence before the dispute arose. In this case, the petitioners have filed the application for comparing the signature found in the cheque which was issued in the year 2007 and the lease deed produced by the petitioners was of the year 2008 and hence, the signature in the cheque cannot be compared and that was rightly considered by the Courts below and dismissed the petitions. I do not find any reason to interfere with the orders passed by the Courts below.

5. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jvm

To

The Principal Sessions Court,
Namakkal.

1 CC to Mr.T.Dhanyakumar, Advocate SR.No. 15003

1 CC to Mr.R.Karthikeyan, Advocate SR.No. 15205

LRS (CO)
PSI (30.03.2015)

CrI.O.P.No.22725 of 2009
and M.P.No.1 of 2009



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