

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.5192 of 2015

S.Selvaraj

... Petitioner

..Vs..

R.Palaniswamy

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to set aside the order dated 17.12.2014 made in Crl.M.P.No.7082 of 2014 in S.T.C.No.110/2012 on the file of the learned Judicial Magistrate, Fast Track Court, Tirupur.

For Petitioner : Mr.P.M.Duraiswamy

For Respondent : Mr.P.Krishnan

O R D E R

The present Criminal Original Petition has been filed seeking to set aside the order dated 17.12.2014 made in Crl.M.P.No.7082 of 2014 in S.T.C.No.110/2012 on the file of the learned Judicial Magistrate, Fast Track Court, Tirupur.

2. The petitioner herein filed a petition in Crl.M.P.No.7082 of 2014 in S.T.C.No.110/2012 on the file of the Judicial Magistrate, Fast Track Court, Tirupur seeking to send the Cheque (Ex.P1) to the Handwriting and Finger Print Expert attached to Forensic Sciences Department, Kamarajar Salai, Chennai through a Commissioner appointed by this Court for giving expert opinion on comparison of the disputed signature and writings found on the cheque with the admitted signatures and writings of the petitioner found in the documents exhibited and available on record in the private complaint. As the said petition got to be dismissed, seeking to quash the same, the petitioner is before this Court.

3. The case of the respondent/complainant is that the petitioner approached him and sought his financial assistance to overcome the financial crisis in his business assuring that he

will duly repay the loan amount along with interest within a reasonable period of time. Believing his words, the respondent released loans in favour of the petitioner on various occasions and the petitioner, on various occasions paid money towards partial satisfaction of the interest payable to the respondent for the loans he had availed from him. But, the petitioner failed to repay the entire sum due to the respondent even after repeated demands from him. During September 2011, when the respondent contacted the petitioner and demanded him to pay the total outstanding amount including the principal and interest, the petitioner issued a cheque for a sum of Rs.20,00,000/- towards part settlement of the total outstanding amount and promised to repay the balance sum with interest at the earliest. When the respondent presented the cheque with his banker, Axis Bank, Tirupur Branch, it was dishonoured for the reason 'funds insufficient'. Hence, the respondent herein filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act.

4. Heard the learned counsel for the petitioner as also the learned counsel for the respondent.

5. Learned counsel for the petitioner would submit that the alleged cheque was not issued by the petitioner, as could be seen from the petitioner's reply to the statutory notice, in which he has clearly stated that the alleged cheque was not signed by him.

6. On a careful perusal of the order passed by the Judicial Magistrate, Fast Track Court, Tirupur, I find that the petitioner (P.W.1) was cross-examined on two occasions, viz. in October 2012 and August 2013. Thereafter, on completion of the evidence, the statement of the petitioner under Section 313 was also recorded. It is seen that during the process of recording evidence, the petitioner has not chosen to file a petition to send the alleged cheque for Expert Opinion for comparison of signatures. Therefore, the Trial Court came to the conclusion that the petition was filed to drag on the proceedings. Furthermore, the petitioner has not produced any documents containing his admitted signatures before the Trial Court. Hence, the Trial Court, relying on a judgment of this Court passed in C.R.P.(PD) No.89 of 2005, dated 29.08.2006 in the case of N.Chinnasamy v. P.S.Swaminathan, dismissed the petition filed by the petitioner. I do not find any infirmity in the said order.

7. In view of the above, absolutely, I do not find any reason or compelling circumstance to interfere with the order passed by the Trial Court. Hence, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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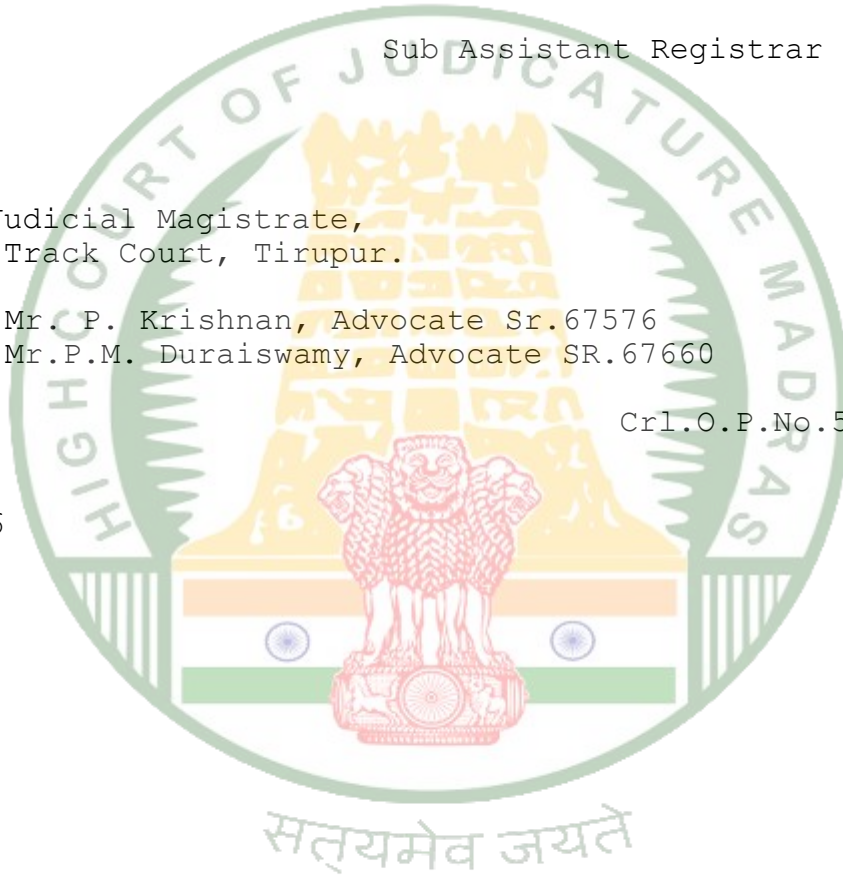
The Judicial Magistrate,
Fast Track Court, Tirupur.

+ 1 cc to Mr. P. Krishnan, Advocate Sr.67576

+ 1 cc to Mr.P.M. Duraiswamy, Advocate SR.67660

Cr1.O.P.No.5192 of 2015

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