

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2016

CORAM

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.255 of 2016
and
Cr1.MP.No.1764 of 2016

N.S.Krishnakumar

... Petitioner/Accused

Vs.

M.Venkatachalam

... Respondent/Complainant

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to call for the records relating to order dated 09.07.2015 made in CMP.No.2901 of 2014 in STC.No.292 of 2013 on the file of the Fast Track Judicial Magistrate No.I, Erode by allowing this criminal revision.

For Petitioner : Mr.D.Gopal

For Respondent : Notice served - No appearance

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate, Fast Track Court No.I, Erode in CMP.No.2901 of 2014 in STC.No.292 of 2013 dated 09.07.2015, dismissing the application filed by the petitioner to send the cheque for expert opinion under Section 45 of the Indian Evidence Act.

2.Heard the learned counsel for the petitioner and perused the records. Though notice was served on the respondent, there is no representation on behalf of the respondent.

3.The learned counsel for the petitioner contended that the petitioner is the accused in STC.No.292 of 2013, disputing the signature in the cheque, the trial court without application of mind dismissed the application erroneously, therefore, the order passed by the Magistrate in CMP.No.2901 of 2014 is liable to be set aside.

4.The petitioner filed petition before the trial Court under Section 45 of the Indian Evidence Act to compare the signature in the cheque along with the admitted signature of the petitioner for expert opinion. But in the petition the accused has not mentioned or produced any admitted signature for comparison with the disputed signature in the cheque. Hence, the trial Court correctly rejected the petition filed by the petitioner/accused.

5.Any person who files petition under Section 45 of the Indian Evidence Act, to compare the disputed signature with the admitted signature of the petitioner, the admitted signature should be filed along with in the petition itself, without mentioning or producing the admitted signature, the court cannot send the disputed signature to compare with the admitted signature of the petitioner to the forensic department for expert opinion. If the party fails to produce or mention the admitted signature, the petition is liable to be rejected.

6.In view of the above said facts and circumstances, the order passed by the learned Judicial Magistrate, Fast Track Court No.I, Erode deserves merits and acceptance and this court finds no illegality or infirmity in the order passed by the trial court and the same does not warrant any interference by this court.

7.In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

The Judicial Magistrate,
Fast Track Court No.I, Erode.

+lcc to Mr.D.Gopal, Advocate, S.R.No.42624

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MSM(CO)
CA(18/08/2016)