

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2016

CORAM

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.R.C.No. 820 of 2010

M.P.No. 1 of 2010

K.S.Moorthy

... Petitioner/Petitioner/
Accused

Vs.

G.Saravanan

... Respondent/Respondent/
Complainant

Prayer:- Petition filed under Section 397 & 401 of CrI.P.C. against the order dated 27.05.2010 made in C.M.P.No. 4531 of 2010 in S.T.C. No.3292 of 2009 on the file of the Judicial Magistrate, Bhavani.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.E.C.Ramesh

O R D E R

The present revision petition has been filed challenging the order dismissing the petitioner's application filed under Section 45 of the Evidence Act to compare the signature found in the Ex.P.1-cheque with the signature found in Ex.P.4-the acknowledgment card.

2. The petitioner is the accused in a private complaint filed by the respondent herein, under Section 138 of Negotiable Instrument Act. The present application has been filed on the ground that the petitioner denied the signature found in the cheque and in order to prove the same, he wants to compare the signature found in the cheque with that of the acknowledgment card, in which he signed while receiving the legal notice sent to the petitioner.

3. The above application has been resisted by the respondent/complainant on the ground that the acknowledgment card signed by the petitioner is consequent to the cheque and there is all possibility of the petitioner being changed his

signature deliberately and now the trial has commenced and the complainant was also cross examined by the petitioner. Hence, the present application is not maintainable and it has been filed with a deliberate intention to drag on the proceedings.

4. The trial Court considering the respective claim dismissed the petition filed by the petitioner/accused herein. Challenging the same, the present revision has been filed.

5. Heard Mr.N.Manokaran, learned counsel for the petitioner and Mr.E.C.Ramesh, learned counsel for the respondent.

6. When the petitioner sought for comparing the signature, the proper method would be to produce the any admitted signature in the contemporary period, whereas the petitioner sought to compare the signature found in the cheque with the acknowledgment card which was made subsequent to the issuance of the cheque and there is every possibility of petitioner deliberately changed his signature subsequent to issuance of cheque. If the intention of the petitioner is genuine, he ought to have produced the signature found in the other document which is in the contemporary period. In spite of that the petitioner cannot sought to compare the signature which was subsequent to the issuance of cheque. The Trial Court rightly came to the conclusion that the petition has not been filed with the bonafied intention and I find no infirmity in the order passed by the trial Court. Hence, the revision is liable to be dismissed and accordingly, dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rts

To

The Judicial Magistrate,
Bhavani.

+lcc to Mr.N.Manokaran, Advocate, S.R.No.72511

+lcc to Mr.E.C.Ramesh, Advocate, S.R.No.72389

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