

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.668 of 2016
and Crl.MP.4745 of 2016

G.Badri Narayanan

.. Petitioner

Vs.

B.Purusothaman

.. Respondent

Prayer :- Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 29.12.2015 made in CMP.No.1804 of 2010 in CC.No.249 of 2007 on the file of the Judicial Magistrate, Arakkonam.

For Petitioner : Mr.A.Saranraj

For Respondent : Mr.G.Jeremiah

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate, Arakkonam made in CMP.No.1804 of 2010 in CC.No.249 of 2007 dated 29.12.2015.

2.It is admitted by both sides that the present revision petitioner/complainant preferred private complaint under Section 138 of the Negotiable Instruments Act.

3.According to the learned counsel for the petitioner, the respondent, after borrowing the amount of Rs.2,00,000/- issued two cheques for Rs.50,000/- bearing No.060378 and for Rs.1,50,000/- bearing No.060379. Both the cheques were presented for collection and they were returned with an endorsement "insufficient funds". After issuing legal notice, the complainant preferred private complaint before the concerned Judicial Magistrate Court under Section 138 of the Negotiable Instruments Act. During the pendency of the main case, the petitioner preferred CMP.No.804 of 2010 under Section 45 of the Indian Evidence Act to compare the signatures found in the cheques along with the admitted signatures of the accused in the memo of appearance in the postal acknowledgment card and also

in the answers to the 313 of Cr.PC. questioning. The said petition was allowed on 10.03.2010. Thereafter the documents were sent to forensic department for getting expert opinion. The same was returned with direction to file some more 10-15 signatures of the accused during the year 2005-2007. It is also admitted that the learned Judicial Magistrate, Arakkonam directed the petitioner to file the admitted documents, but the petitioner filed memo to send the signatures of the accused and 313 questioning and the said memo was rejected on 03.08.2013. Thereafter, the petitioner filed another memo on 31.03.2015 which was also rejected on 01.07.2015, with a direction to file admitted signatures of the accused as per the letter of Forensic Science Department dated 03.10.2012. The petitioner has not chosen to file any documents containing the signatures of the accused, hence, the petition was closed. Aggrieved over the same, the complainant is before this Court by way of present criminal revision.

4. According to the respondent, the disputed cheque was made during the month of August 2007 and it is seen that the forensic department requested further admitted signatures of the accused during the year 2005-2007.

5. In this case, the learned counsel for the petitioner filed memo stating that the certified copies of the memo of appearance, Examination of the accused, Ex.P6 Acknowledgment card of Advocate Notice, Acknowledgment card of Court summons in CC.No.249 of 2016 are all the admitted signatures of the accused. The accused received the Ex.P6 advocate notice acknowledgment card, court summons and the course of examination of witnesses on 29.07.2008 the accused signed in Section 313 questioning and there are more than five signatures found in the Section 313 questioning and they are admitted signatures found in the court bundle itself and the order of the trial Court in rejecting the application is against the principles of natural justice. The argument of the learned counsel for respondent that the petitioner has not filed any admitted signature as requested by the forensic department and as per the direction of the trial Court is not at all acceptable one. There are some admitted signatures made available in the Court bundle during the year 2007-2008 itself. The disputed signatures made in the year 2007 has to be compared with the signatures made in the year 2007-2008. This court is of the considered view that the rejection of the petition by the trial Court is liable to be quashed and the same is hereby quashed.

6. In the result, the criminal revision petition is allowed, with a direction to the trial Court to send the disputed signatures found in the cheques bearing Nos.060378 and 060379 to

compare with the admitted signatures of the accused in Ex.P6- Advocate Notice Acknowledgment card, Acknowledgment card for Court summon in CC.No.249 of 2007 and signatures of the accused in Section 313 questionings signed on 29.07.2008 and 14.10.2009, to call for the expert opinion report from the Forensic Science Department by comparing the disputed signatures with that of the available admitted signatures of the accused. The Forensic Science Department is directed to send a report within two months from the date of receipt of the above said documents from the trial Court. Considering the pendency of the case, this Court further directs the trial Court to dispose of the main case preferably within a period of two months from the date of receipt of a expert opinion report from the Forensic Science Department. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Arakkonam.
2. The Director,
Forensic Science Department,
Chennai 4.

1 cc to Mr.A.Saranraj, Advocate, sr.40441
1 cc to Mr.G.Jeremiah, Advocate, sr.40950

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