

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2016

CORAM

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

CrI.R.C.No.870 of 2016
and
CrI.MP.No.6700 of 2016

J.Dhamodharan

... Petitioner/Accused

Vs.

G.Nallathambi

... Respondent/Complainant

Prayer:- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order in CrI.MP.No.708 of 2016 in STC.No.11 of 2016, dated 19.05.2016 on the file of the learned Judicial Magistrate, Fast Track Court, Magisterial level, Ambattur, Chennai.

For Petitioner : Mr.R.Ganesh

For Respondent : Mr.T.Muruganandham

ORDER

The present Criminal Revision is directed against the order passed by the learned Judicial Magistrate, Fast Track Court, Magisterial level, Ambattur, Chennai in CrI.MP.No.708 of 2016 in STC.No.11 of 2016 dated 19.05.2016 dismissing the petition filed under Section 311-A of Cr.PC r/w. Sections 45 and 73 of Indian Evidence Act.

2.The learned counsel for the petitioner would contend that the present respondent is the complainant. The complainant taking advantage of the borrowal of money on various occasions to the tune of Rs.20,00,000/-, the accused/petitioner pledged JCB vehicle to the complainant and handed over blank cheque for security purposes. Subsequently, the petitioner settled all the amount to the complainant, the complainant returned back the documents and RC book and failed to return the blank cheques. The complainant filled up the details in the cheque and at the time of cross examination the complainant admitted that the

signatures are different in the document Ex.P6, when asked by the petitioner, the complainant stated that the cheque was misplaced by him and due to misunderstanding between the parties, the complainant preferred the complaint before the trial Court. During the pendency of the main case, the accused filed the present petition to send the vital documents of Exs.P1, P2, P7 and P8 and also specimen signature of accused to get the opinion from the hand writing expert under Section 311-A Cr.PC and also 45 r/w.73 of the Evidence Act, which according to the petitioner was erroneously dismissed by the trial Court on 19.05.2016. Hence, the present revision by the accused before this Court.

3.The learned counsel for the respondent would contend that according to the petitioner, the signatures found in the cheque are admitted as the signatures of the accused, but he wants to compare signatures with the specimen signatures of the accused in the cheque, which is not at all possible. In view of the present position the petition is not maintainable, the trial Court after appreciating the facts and circumstances of the case dismissed the application and there is no illegality or infirmity in the order of the trial Court and prays to dismiss the revision petition.

4.According to the petitioner, the accused handed over the blank cheque signed by him to the complainant for security purposes. Hence, the signatures found in the cheque are clearly admitted on the side of the revision petitioner.

5.On perusal of the documents, it is clear that there is no averments as to signature found in the dishonoured cheques are not of the accused/revision petitioner and there is no necessity to compare with the signature of the respondent and the revision petitioner to that of the admitted signature of the accused for obtaining handwriting expert opinion. Since, the petitioner has not denied the signatures found in the dishonoured cheques Ex.P1 and P2, hence, there is no necessity for sending the signature for comparing with the specimen signature. The petitioner has not denied the signature found in the cheque and he filed the present revision only to drag on the proceedings, the arguments of the learned counsel for the respondent is acceptable one. Whether the petitioner has paid the cash or not, the bank statement has not been produced, the same has to be decided at the time of trial proceedings. The order passed by the trial Court in CMP.No.708 of 2016 in STC.No.11 of 2016 dated 19.05.2016, 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.

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

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

tsh

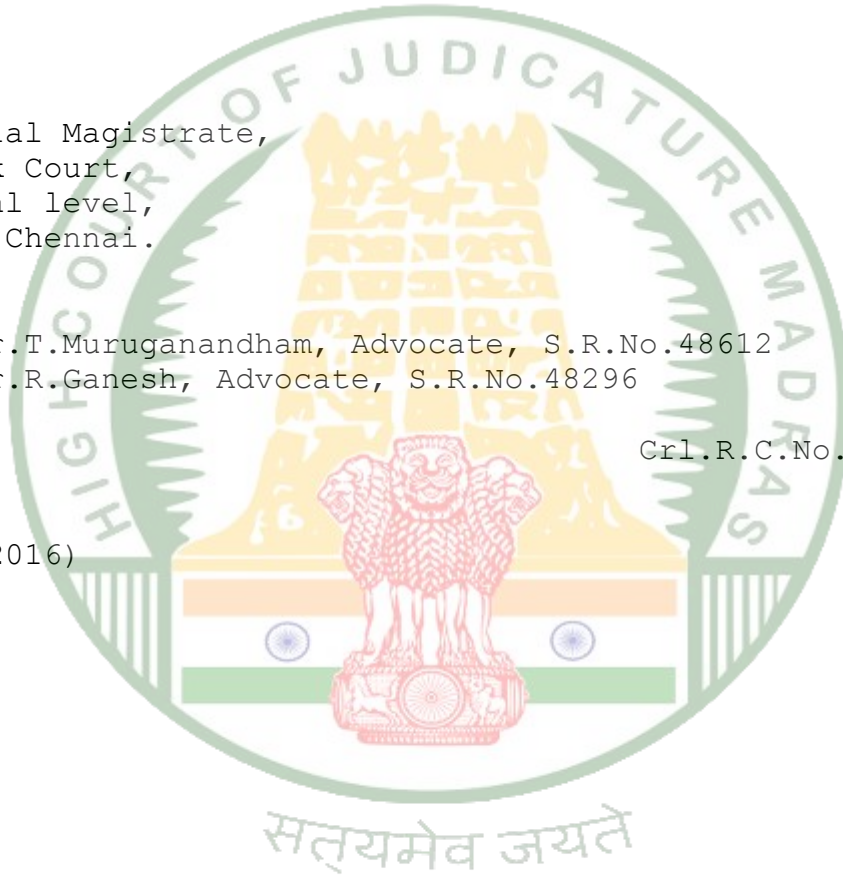
To

The Judicial Magistrate,
Fast Track Court,
Magisterial level,
Ambattur, Chennai.

+1cc to Mr.T.Muruganandham, Advocate, S.R.No.48612
+1cc to Mr.R.Ganesh, Advocate, S.R.No.48296

Cr1.R.C.No.870 of 2016

SV(CO)
CA(21/09/2016)



WEB COPY