

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2016

(Orders Reserved on : 13.06.2016)

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.Nos.93 and 94 of 2016
and Crl.M.P.Nos.667 and 668 of 2016

1. V.Mohan
2. M/s.J.D.Engineering,
Rep. by its Proprietor,
V.Mohan,
No.32, Ganapathy Nagar II Street,
Ekkattuthangal,
Chennai - 32. ... Petitioners in
Crl.R.C.No.93/2016
/Accused

1. V.Gopi
2. M/s.S.V.Engineering,
Rep. by its Proprietor,
V.Gopi,
No.32, Ganapathy Nagar II Street,
Ekkattuthangal,
Chennai - 32. ... Petitioners in
Crl.R.C.No.94/2016
/Accused

Vs.

C.Kanniappan ... Respondent in both Crl.R.Cs./Complainant

Prayer in both Crl.R.Cs.: Criminal Revision Cases filed under Sections 397 & 401 (1) of the Code of Criminal Procedure, to call for the records in Crl.M.P.Nos.933 and 932 of 2013 respectively on the file of the learned Additional District and Sessions Judge, Kancheepuram District at Chengalpet in C.A.Nos.43 and 42 of 2012 respectively on the file of the learned Additional District and Sessions Judge, Kancheepuram District at Chengalpet and set aside the orders of dismissal and direct them to send the cheques for Forensic Expert opinion.

In both Crl.R.Cs.

For Petitioners: Mr.D.Yogeswaran
For Respondent : Mr.K.Meenakshisundaram

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COMMON ORDER

The Criminal Revision Cases are directed against the orders dated 18.02.2015 passed by the learned Additional District and Sessions Judge, Kancheepuram District at Chengalpet, in Crl.M.P.Nos.933 and 932 of 2013 respectively in C.A.Nos.43 and 42 of 2012 respectively, dismissing the petitions filed by the revision petitioners under Section 45 of Evidence Act r/w. 391 of Cr.P.C., to send the chques bearing Nos.440992 and 895370 respectively dated 24.02.2010 to the Forensic Expert opinion for the purpose of ascertaining the different inks used in the cheques and the age of the ink utilized in the above said cheques.

2. The learned counsel appearing for the petitioners would contend that the respondent had instituted private complaints against the revision petitioners under Sections 138 and 142 of the Negotiable Instruments Act on the ground that the revision petitioners borrowed money from the respondent and for that, they had issued two cheques on 24.02.2010 for a sum of Rs.1,86,000/- bearing cheque Nos.440992 and 895370 respectively dated 24.02.2010 drawn on ICICI Bank, Ashok Nagar Branch, Chennai, in favour of the respondent. The trial Court, after full pledged trial, convicted the revision petitioners/accused. Against the said conviction, the petitioners have preferred appeals in Crl.A.Nos.43 and 42 of 2012 respectively before the learned Additional District and Sessions Judge, Kancheepuram District at Chengalpattu and when the said appeals are pending, the revision petitioners have filed petitions in Crl.M.P.Nos.933 and 932 of 2013 respectively under Section 45 of Evidence Act r/w. 391 of Cr.P.C., to send the chques bearing Nos.440992 and 895370 respectively dated 24.02.2010 to the Forensic Expert opinion for the purpose of ascertaining the different inks used in the cheques and the age of the ink utilized in the above said cheques, since the said cheques were not filled up by them. But, the trial Court, without considering the evidence, erroneously dismissed the said petitions. Hence, the said orders passed by the learned Additional District and Sessions Judge, Kancheepuram, may be set aside the criminal revision cases may be allowed.

3. The learned counsel appearing for the respondent would mainly contend that in this case, admittedly, there is no mechanism available to verify the different inks used in the

cheques and the age of the ink utilized in the above said cheques. There is no infirmity or illegality in the order passed by the learned Additional District and Sessions Judge, Kancheepuram District and hence, the criminal revision cases may be dismissed.

4. In this case, it is admitted by both parties and it is settled principles of law that there is no mechanism available in India to find out the age of the ink. The learned counsel for the petitioners has also not able to suggest any of the authority or lab available in India to find out the age of the ink by the expert opinion. Since there is no mechanism or appropriate authority available in India to find out the age of the ink in the cheques, the petitions in Crl.M.P.Nos.933 and 932 of 2013 respectively were filed only to drag on the proceedings. Hence, the argument of the learned counsel for the petitioners that the said petitions were filed only to drag on the proceedings cannot be rejected. Further, the cases were pending and the petitioners have to prove their case by producing oral and documentary evidence. The petitions filed by the petitioners in Crl.M.P.Nos.933 and 932 of 2013 respectively are not maintainable. The learned Additional District and Sessions Judge, Kancheepuram District, correctly dismissed the said petitions and therefore, there is no infirmity or illegality in the orders passed by the learned Additional District and Sessions Judge. This Court finds no reason to interfere with the orders passed by the learned Additional District and Sessions Judge, Kancheepuram District, which do not warrant any interference by this Court and hence, the criminal revision cases are liable to be dismissed.

5. In the result, both the Criminal Revision Cases are dismissed. The connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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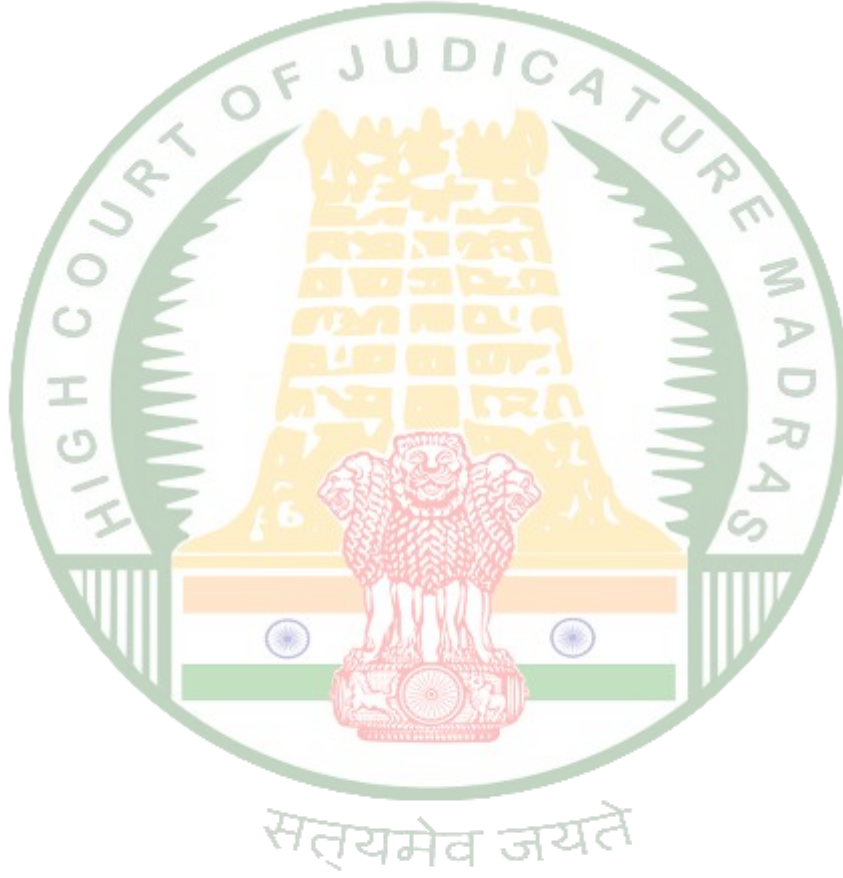
To

The Additional District and Sessions Judge,
Kancheepuram District,
Chengalpattu.

+2 ccs to Mr.D.Yogeswaran Advocate sr 48119 &

Crl.R.C.Nos.93 and 94 of 2016

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