

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2017

CORAM:

THE HON'BLE Dr. JUSTICE S.VIMALA

Criminal Revision No.1298 of 2017
and CrI.M.P.No.12586 of 2017

C.Gnanavelu

... Petitioner/Accused

versus

S.Saravanan

... Respondent/Complainant

Prayer :- Criminal Revision filed praying to set aside the order in C.M.P.No.2149 of 2017 in C.C.No.50 of 2014 order dated 04.09.2017 on the file of Additional District Munsif Cum Judicial Magistrate, Ambur, Vellore District.

For Petitioner : Ms.Thamizharasi

O R D E R

This Criminal Revision is filed against the order dated 04.09.2017 passed in C.M.P.No.2149 of 2017 in C.C.No.50 of 2014 by Additional District Munsif Cum Judicial Magistrate, Ambur, Vellore District.

2. In the order dated 04.09.2017, the learned Magistrate has dismissed the application filed under Section 45 of the Indian Evidence Act seeking permission to send the disputed cheque to expert for comparison with the admitted signature of the accused, and for expert opinion.

3. The trial court has given a very specific reason for rejecting the said application by holding that after examination of witnesses on the side of the respondent/complainant, the accused was questioned under Section 313 Cr.P.C., on the incriminating circumstances appearing against the accused in the evidence of the prosecution witnesses, on 18.12.2014 and thereafter the case was pending for nearly 3 years for examination of witnesses on the side of the petitioner/accused. The trial court has also pointed out that the accused has already examined six witnesses on his side and the case is pending for examination of further witnesses and the petitioner/accused could have filed this petition at earlier stage itself.

4. It is apparent that when the case is pending for nearly three years on the file of the trial court, the petition seeking permission to send the disputed cheque to the expert for comparing with the admitted signature, filed by the Revision Petitioner/accused, is nothing but an attempt to drag on the proceedings, especially when the petitioner/accused has taken a stand in his reply notice dated 8.5.2014 that he had never issued the disputed cheque, but that the signed blank cheque was lost by him during the last week of January 2014. However, contra to the same, during questioning under Section 313 Cr.P.C., the petitioner/accused stated that he has lost the signed blank cheque during the month of December 2013 and misusing the same, the respondent/complainant along with his brother lodged a false complaint.

5. In such circumstances, the trial court is perfectly right in dismissing the application under Section 45 of the Indian Evidence Act and this court endorses the view of the Magistrate that the Revision Petitioner/Accused has come up with the said petition only with a view to drag on the proceedings. This court does not find any infirmity or illegality in the order passed by the trial court. Accordingly, the Criminal Revision is dismissed at the admission stage itself. Consequently, connected Crl.M.P., is also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nvsri

To

The Additional District Munsif
Cum Judicial Magistrate, Ambur,
Vellore District.

Criminal Revision No.1298 of 2017
and Crl.M.P.No.12586 of 2017

RJ(CO)
CS/13/02/18