

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.42 of 2014
and
M.P.No.1 of 2014

N.Satheesh Kumar

.. Petitioner

Vs

N.Muthusamy
Respondent

..

Prayer:- Criminal Revision filed under Section 397 r/w. 401 of Cr.P.C., to set aside the order dated 10.10.2013 made in C.M.P.No.6752 of 2012 in S.T.C.No.43 of 2012 on the file of the Judicial Magistrate, Kangayam.

For Petitioner : Mr.Shase,
for M.Guruprasad

For respondent : Mr.S.Kalyanaraman

ORDER

This revision has been filed against the order passed by the Judicial Magistrate, Kangayam in C.M.P.No.6752 of 2012 in

S.T.C.No.43 of 2012 dated 10.10.2013.

2. The petitioner herein is the accused, in a private complaint, in S.T.C.No.43 of 2012 on the file of the Judicial Magistrate, Kangayam, for an offence under Section 138 of Negotiable Instruments Act. Earlier, the petitioner filed an application under Section 45 of the Indian Evidence Act to send the disputed cheque to Forensic Expert for comparison with his admitted signature. In the above petition, the petitioner /accused contended that he has not issued any cheque to the complainant and the cheque has been stolen by the complainant from the office of the accused and the signature found in the cheque is also not that of the petitioner/accused, in the said circumstance, he sought to send the disputed cheque for comparison of the signature to the handwriting expert. Earlier, the court below allowed the application and gave a month time to the petitioner to produce the document containing the admitted signature of the petitioner. Since the petitioner did not produce the document containing admitted signature, the trial court closed the application. Challenging the same, the present revision has been filed.

3. I have heard Mr.M.Guruprasad, learned counsel appearing for the petitioner and Mr. S.Kalyanaraman, learned counsel appearing for the respondent and perused the materials

available on record.

4. Mr.M.Guruprasad, learned counsel appearing for the petitioner, would submit that since the petitioner was sick and bed ridden, he was not able to produce the document within the time stipulated by the court and on the date, when the matter was called , he was not present, and he filed a petition under Section 317 Cr.P.C. Even though, the court below allowed the petition filed under Section 317 Cr.P.C, but dismissed the petition on the ground that he did not file the admitted signature.

5. He would further submit that he is having document containing the admitted signature with him and he is ready to submit the same. He would also submit that now the matter has been transferred to Judicial Magistrate, Tiruppur and pending.

6. In the above circumstances, considering the fact that the court below allowed the application to send the disputed document to the handwriting expert to be compared with the admitted signature and only due to bonafide reason, the petitioner could not be present before the court and produce the document containing the admitted signature and 317 Cr.P.C. petition filed by the petitioner was also allowed on the same day, in order to give an opportunity to the petitioner, the impugned order passed by the

court below is liable to be set aside.

7. In the result, the criminal revision petition is allowed and the impugned order passed by the court below in C.M.P.No.6752 of 2012 in STC No.43 of 2012 on the file of the Judicial Magistrate, Kangayam, is set aside and the petitioner is directed to file the document containing admitted signature within a period of two weeks from the date of receipt of a copy of this order. On filing such document, the Judicial Magistrate, Tiruppur is directed to send the documents for expert opinion and after obtaining the report, the trial court is directed to dispose the case within a period of 6 months thereafter. Consequently, connected miscellaneous petition is closed.

21.03.2017

mrp

To

1. The Judicial Magistrate,
Kangeyam.
2. The Judicial Magistrate,
Tiruppur
3. The Public Prosecutor,
High Court, Madras.

V.BHARATHIDASAN.J.,

mrp

Crl.R.C.No.42 of 2014

21.03.2017
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