

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.55 of 2017

and

Crl.M.P.No.617 of 2017

Viswanathan

... Petitioner/complainant

VS

K.Shanmugasundaram

... Respondent/Accused

Criminal Revision Case filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order passed by the learned Judicial Magistrate, Fast Track Court No.II, Erode, made in C.M.P.No.660 of 2016 in S.T.C.No.57 of 2012 dated 20.12.2016.

For Petitioner : Mr.C.S.Saravanan
For Respondent : Mr.N.Manoharan

O R D E R

This Criminal Revision Case has been filed against the order dated 20.12.2016 in Crl.M.P.No.660 of 2016 in S.T.C.No.57 of 2012 on the file of the learned Judicial Magistrate, Fast Track Court No.II, Erode.

2. The petitioner is the complainant. Earlier, he filed a private complaint for an offence under Section 138 of Negotiable Instrument Act against the respondent, on the ground that the respondent has borrowed a sum of Rs.2,00,000/- (Rupees two Lakhs) and in order to discharge the above said loan amount, the respondent issued a cheque, when the cheque was presented before the drawee bank the same was returned on the ground of "stoppage of payment". After completing the legal formalities, he has filed the private complaint before the Judicial Magistrate Court. The learned Judicial Magistrate taken cognizance of the offence and taken the matter on file in S.T.C.No.57 of 2012. Thereafter, the respondent/accused disputing the signature found in the cheque filed a petition under Section 45 of Indian Evidence Act to send the cheque to the Forensic Department for getting expert opinion. The Court below allowed the said petition. Challenging the same, the present criminal revision case has been filed.

3. I have heard Mr.C.S.Saravanan, the learned counsel appearing for the petitioner and Mr.N.Manoharan, the learned counsel appearing for the respondent and perused the materials available on record.

4. The learned counsel appearing for the petitioner would submit that the respondent herein admitted the issuance of cheque in his reply notice, now turned around saying that he has not issued the disputed cheque. The learned counsel for the petitioner further contended that the above petition has been filed only to drag on the proceedings and prays for allowing this criminal revision case.

5. The learned counsel appearing for the respondent vehemently opposed the argument advanced by the learned counsel for the petitioner.

6. I have considered the rival submissions.

7. The respondent being the accused, he filed a petition to send the disputed cheque to the Forensic Department for getting expert opinion. The Court below, considered all the materials available on record, allowed the petition and directed to send the cheque to the Forensic Department to compare the signature found in the cheque with the admitted signature. By comparing the signature by an expert no prejudice will be caused to the complainant, and it is only to give an opportunity to the accused to prove his defence. In the above circumstances, I find no illegality and irregularity in the order passed by the Court below and hence there is no merit in the criminal revision case and the same is liable to be dismissed.

8. In the result, the criminal revision case is dismissed. Since the matter is pending from the year, 2012, the learned Judicial Magistrate, Fast Track Court-II, Erode, is directed to send the cheque to the Forensic Department within a period of two weeks from the date of receipt of a copy of this order and get expert opinion within a period of four weeks thereafter and after getting expert opinion, proceed with the trial and complete the same within a period of three months thereafter. Consequently, connected M.P. is closed.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

To

The Judicial Magistrate,
Fast Track Court No. II, Erode.

+1 cc to MR.C.S.SARAVANAN Advocate SR.NO. 25504/2017

+1 cc to MR.N.MANOKARAN Advocate SR.NO. 25716/2017

Cr1.R.C.No.55 of 2017

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RD 17/05/2017