

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Criminal Revision No.660, 661 & 662 of 2014
and
M.P.Nos.1, 1 & 1 of 2014

1. S.P.Dhanasekaran

2. Mallika ... Petitioners in all
Crl.R.C.

Vs

Jayamaharaja ... Respondent in
Crl.R.C.660/2014

Subramani @ Subramanian ... Respondent in
Crl.R.C.661/2014

Varadharaj @ Varadharajan ... Respondent in
Crl.R.C.662/2014

Prayer :-

This Criminal revision is filed under Section 397 of Cr.P.C., to call for the entire records in C.M.P.No.1309 of 2013 in S.T.C.No.10 of 2012, C.M.P.No.1310 of 2013 in S.T.C.No.54 of 2012 and C.M.P.No.1312 of 2013 in S.T.C.No.22 of 2012 dated 04.06.2014 dated 04.06.2014 on the file of the Judicial Magistrate/Fast Track Court, Attur, Salem District and set aside the same.

For petitioners in all Crl.Rc : Mr.C.Prakasam

For respondent in all Crl.Rc : Mr.B.Vasudevan

C O M M O N O R D E R

The Criminal Revision cases have been filed challenging

the order dismissing the petitioners' application filed under Section 45 of the Evidence Act, to send the disputed cheques to the Expert to find out the age of the ink found in the cheques.

2. The petitioners are accused in S.T.C.No.22 of 2012 on the file of the Judicial Magistrate, Fast track Court, Attur, for an offence under Section 138 of Negotiable Act. The above private complaint has been filed on the ground that the petitioners/accused borrowed money from the respondent/complainant and in order to repay the said amount, he has issued 5 cheques. When the same were presented for collection, they were returned as "insufficient funds". Hence, the above complaint has been filed. According to the petitioner/accused, the cheque was issued to the respondent in the year 1992 in respect of some other transaction. Now, using the above cheques, the complainant filled up and filed the present complaint. Pending the case, he filed an application under Section 45 of the Evidence act to send the cheques to the expert to ascertain the age of the ink found in the cheques. The trial Court by an order dated 04.06.2014 dismissed the applications. Challenging the same, the present revision has been filed.

3. Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Mr.B.Vasudevan, learned counsel appearing for the respondent.

4. Now this court, in number of cases, had elaborately considered and held that there is no specific method available in India for ascertaining the age of the ink used for writing in the disputed documents. As there is no expert available, who can examine the age of the ink in the cheques, the cheques cannot be sent to expert for ascertaining the age of the ink. This court in a judgment reported in 2010(1) CTC 424 (R.Jagadeesan /vs/ N.Ayyasamy) has held that there is no expert available in our country to ascertain the age of the ink.

5. In the above circumstances, the relief sought for by the petitioner cannot be granted and considering the same, the trial court rightly dismissed the appeal.

6. I find no illegality or irregularity in the order passed by the court below. Hence, the revisions deserve to be dismissed.

7. Accordingly these criminal revisions are dismissed. Consequently, connected miscellaneous petitions are closed. Since S.T.C cases are pending from the year 2012, the court below is directed to dispose of the case within a period of 6 months from the date of receipt of a copy of this order.

-s/d-

Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

mrp
To

1.The Judicial Magistrate,
Fast Track Court,
Attur.

2.Do Thro The Chief Judicial Magistrate
Salem

+1 cc to Mr.C.Prakasam Advocate sr 17262

सत्यमेव जयते

Cr1.R.C.Nos.660 to 662 of 2014

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