



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.09.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C (MD) .No.606 of 2015

and

M.P. (MD) .No.1 of 2015

D.Lobia

... Petitioner /Accused

-Vs-

C.Suthanthira Devi

... Respondent/Complainant

Prayer : Criminal Revision Case is filed under Section 397 and 401 of the Code of Criminal Procedure, to call for the records petitions to the order dated 26.10.2015 passed in Crl.M.P.No.5687 of 2015 in S.T.C.No.138 of 2014 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level), No.I, Nagercoil, Kanyakumari District and set aside the same.

For Petitioner : Mr.F.Deepak

For Respondent : No appearance

O R D E R

This Criminal Revision Petition has been filed, challenging the order, dismissing the petitioner's application, seeking to send the disputed cheque to a hand writing expert to compare the signature found in the cheque with the admitted signature.

2.I have heard Mr.F.Deepak, learned counsel appearing for the petitioner. There is no appearance for the respondent and perused the records carefully.

3.The petitioner is an accused in S.T.C.No.138 of 2014 on the file of the Fast Track Judicial Magistrate No.I, Nagercoil. The respondent herein filed a private complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act. The above complaint has been filed on the ground that the petitioner borrowed a sum of Rs.7,00,000/- from the respondent/complainant as loan and thereafter, in order to discharge the same, the accused issued a cheque drawn on Axis Bank Limited, Nagercoil Branch. When the above cheque has been presented for collection, the same was returned stating 'insufficient funds'. Thereafter, the respondent/complainant issued a legal notice to the petitioner to pay the amount. Even after receipt of the said notice, the petitioner/accused did not send any reply and also failed to repay the amount. Hence, a complaint has been filed and it was also taken cognizance and



summons were issued to the petitioner. After framing of charges, trial has commenced and the petitioner himself examined the Bank Manager of the Axis Bank as D.W.1, wherein, he has stated that the signature found in the cheque tallies with the account opening form, submitted by the petitioner, at the time of opening of the account. Thereafter, the present application has been filed by the petitioner to send the disputed signature found in the cheque to expert's opinion for comparing the same with the marriage agreement, dated 28.08.2008 and the signature found in the driving licence, issued in the year 2004.

4.The trial court dismissed the same, stating that the documents, containing the admitted signatures, sought to be compared are not contemporaneous ie. 7 years and 11 years before the signature found in the disputed cheque and that cannot be compared. Now, challenging the same, the present criminal revision case has been filed.

5.On a perusal of the records, it is seen that already, the petitioner examined the Bank Manager as D.W.1. He has stated that the signature found in the cheque is identical to the signature found in the account opening form. Apart from that, the petitioner sought to compare the signature found in the cheque, that was issued in the year 2014 with that of the marriage agreement, dated 28.08.2008, which is more than 6 years and the driving licence issued in the year 2004, which is more than 10 years. Admittedly, the documents are not belonged to the contemporaneous period, while considering the date of cheque and the above signature cannot be compared with that of the disputed signature found in the cheque. Considering all the above, the trial court has rightly dismissed the petition. Hence, I find no illegality or irregularity in the order passed by the court below. There is no merit in the revision case.

6.In the result, this revision case is dismissed. Since STC is pending from the year 2014 and the trial has already commenced, the trial court is directed to dispose of the case, within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

<https://hcservicescourts.gov.in/hcservices> Magistrate, Fast Track Court
(Magisterial Level), No.I, Nagercoil,
Kanyakumari District.



2. -Do- Thro The chief Judicial Magistrate,
Kanyakumari District, Nagercoil.

VS वसुधैव कुटुम्बकम्

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