



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD) No.1808 of 2017

KR.Ramasamy

... Petitioner

-vs-

M.Unnamalai

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records of the learned Judicial Magistrate (Fast Track Court), Karaikudi, in Cr.M.P.No.3415 of 2016 in C.C.No.47 of 2013 and set aside the order dated 01.12.2016.

For Petitioner : Mr.M.Karunanithi

For Respondents : Mr.K.Anbarasan
Government Advocate (CrI. side)

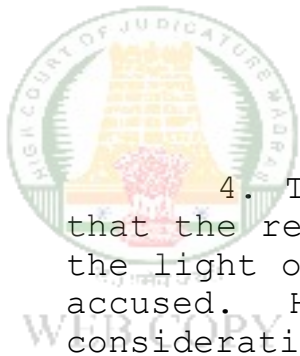
O R D E R

For the sake of convenience, the parties are referred to as the complainant and accused.

2.The accused is facing prosecution in C.C.No.47 of 2013 before the Judicial Magistrate, Fast Track Court, Karaikudi, for offence under Section 138 of the Negotiable Instruments Act, which has been launched by the complainant herein. During trial, the accused rebutted the signature in the impugned cheque and also filed an application under Section 45 of the Evidence Act for sending the impugned cheque to be compared with the admitted signature of the accused by an expert. The said petition was allowed and the impugned cheque along with the admitted signature of the accused had been sent for comparison by an expert. The expert opinion has been received, which, according to the accused, is in his favour. While so, the accused filed a petition in CMP No.3415 of 2016 in C.C.No.47/2013 for recalling the complainant (P.W.1) and for examination of the expert, who had conducted the comparison. The trial Court by order dated 01.12.2016 in C.M.P.No.3415 of 2016 in C.C.No.47/2013 allowed the petition partly by permitting the examination of the Expert, but disallowing the plea of the accused to recall the complainant. Challenging which, the accused is before this Court.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Heard the learned counsel for the petitioner/accused.



4. The learned counsel for the petitioner/accused submitted that the recall of complainant (P.W.1) is imperative, especially in the light of the fact that the expert's opinion is in favour of the accused. He also submitted that the trial Court has deferred the consideration for recall of P.W.1 after the expert is examined.

5. This Court gave its anxious consideration to the submissions made by the learned counsel for the petitioner/accused.

6. On a careful reading of the impugned order, this Court finds that the learned Magistrate has given good reasons for permitting the accused to examine the expert and has further stated that the complainant cannot have any grievance, because the complainant can cross examine the expert. However, as regards the recall of the complainant (P.W.1), the learned Judge has clearly stated that the said prayer cannot be countenanced. In the considered opinion of this Court, this Court does not find any infirmity in the order passed by the trial Court inasmuch as the expert has been permitted to be examined and it is definitely not necessary to once again recall P.W.1 on the question of merely putting some suggestions to P.W.1. Under such circumstances, this Court finds that no interference is warranted in the order of the trial Court. Accordingly, this petition is dismissed. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(A.S.)

/True copy/

Sub Assistant Registrar

To:

- 1.The Judicial Magistrate (Fast Track Court),
Karaikudi
- 2.Do Thro'The Chief Judicial Magistrate, Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

1CC TO MR. M. KARUNANITHI, ADVOCATE SR: 51770

AE/SKN RSK/SAR 4/17/4/2017/2P/5C

CrI.O.P.(MD)No.1808 of 2017
and CrI.M.P.No.1454/2017
11.04.2017