



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2018

CORAM:

THE HONOURABLE Mr.JUSTICE P.VELMURUGAN

Cr1.RC.(MD)No.3 of 2017

and

Cr1 MP(MD)Nos.18 of 2017 and 9416 of 2018

WEB COPY

S.M.Haja Sheriff

...Petitioner/Accused

Vs.

V.R.K.Thirumoorthy

...Respondent/Complainant

Prayer: Criminal Revision Petition has been filed under Section 138 and 142 of N.I. Act to call for the records of the learned Judicial Magistrate, Fast Track Court (ATML) Karur in connection with CC No.525 of 2014, dated 06.09.2016 and set aside the order dated 06.09.2016 passed in CrMP No.5163 of 2016 in CC No.525 of 2014 by the learned Judicial Magistrate, Fast Track Court (ATML), Karur.

For Petitioner

: Mr.VR.Venkatesan

For Respondent

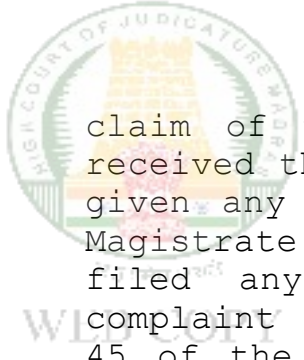
: Mr.V.Nagarajan

J U D G M E N T

This Revision Case has been filed to call for the records of the learned Judicial Magistrate, Fast Track Court (ATML) Karur in CC No.525 of 2014 and set aside the order dated 06.09.2016 passed in CrMP No.5163 of 2016 in CC No.525 of 2014 by the learned Judicial Magistrate, Fast Track Court (ATML), Karur.

2.The respondent has filed a complaint against the revision petitioner under Section 138 of the Negotiable Instruments Act. During the pendency of CC the revision petitioner filed CrMP No.5163 of 2016, under Section 45 of the Indian Evidence Act, to send the disputed cheque for Forensic Laboratory for comparing the disputed signature and the admitted signature. But, the same was resisted by the respondent. After giving opportunity for hearing, the learned Magistrate dismissed the said petition mainly on two grounds. The first ground for dismissal of the petition is that after receipt of the statutory notice, the revision petitioner has not given any reply and explanation. The second ground is that since two prayers have been sought for in one petition, the petition is not maintainable.

3.This Court does not agree with the reason recorded by the Magistrate, regarding the maintainability of the petition. As far as not giving any reply or explanation is concerned, though it is a well settled proposition of law that non sending reply, may not be a ground for accepting the case of the respondent or reject the



claim of the revision petitioner. When the revision petitioner received the statutory notice issued by the respondent, he has not given any reply and also after receipt of the summons from the Magistrate on the complaint filed by the respondent, he has not filed any memo for inspecting the documents. Further, the complaint was filed in the year 2014. The petition under Section 45 of the Indian Evidence Act was filed in the year 2016, even after completion of the complainant side evidence, during the defence side evidence. Therefore, it shows that he has not taken any steps to dispute the signature, by availing the opportunity given to the petitioner earlier. He has filed this petition at the stage of defence side witness, which shows that the petition is filed only to protract the proceedings before the Court below.

4. In view of the above discussions, there is no merit in this revision and accordingly, this revision case is dismissed. Consequently, connected miscellaneous petitions are closed.

5. Further, it is stated that the complainant side evidence is over and the matter is posted for defence side witness. Under such circumstances, the learned Magistrate is directed to dispose of the case in accordance with law within a period of forty five days from the date of receipt of a copy of this judgment.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Judicial Magistrate,
Fast Track Court at Magisterial Level(ATML)
Karur.

+1cc to Mr.V.Nagarajan, Advocate Sr.No.95320

+1cc to Mr.VR.Venkatesan, Advocate Sr.No.95275

DSK

VB/SV/SAR2/19.11.2018/2P/4C

**Judgment made in
Cr1.RC.(MD)No.3 of 2017
and
Cr1 MP(MD)Nos.18 of 2017 and 9416 of 2018
14.11.2018**