



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2017

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CrI.R.C(MD)No.640 of 2017
and
CrI.M.P.(MD).No.7195 of 2017

S.Ram Kumar

.. Petitioner/Accused

Vs.

A.Asan

.. Respondent/Complainant

PRAYER: Criminal Revision Case is filed under Section 397 read with Section 401 of Cr.P.C., to call for the entire records in S.T.C.No.94 of 2016 and set-aside the order passed by the learned Judicial Magistrate No.II, (Fast Track Court at Magisterial level), Madurai, in Cr.M.P.No.2409 of 2017, dated 07.07.2017.

For Petitioner : Mr.A.Raja
For Respondent : Mr.P.Paranthaman

ORDER

The revision has been filed challenging the order dismissing the petitioner's application filed under Section 45 of the Indian Evidence Act, 1872, to verify the signature found in the disputed cheque by an expert.

2. I have heard Mr.A.Raja, learned counsel appearing for the petitioner and Mr.P.Paranthaman, learned counsel appearing for the respondent and perused the records carefully.

3.The learned counsel for the petitioner submitted that the respondent herein filed a complaint against the petitioner under Section 138 of Negotiable Instruments Act on the ground that the petitioner borrowed a sum of Rs.3,25,000/- and in order to discharge the liability, the petitioner issued a cheque and when the cheque was presented in the Bank, it has been returned with an endorsement that 'drawer's signature differs'. Subsequently, the respondent/complainant filed a private complaint and the same has been taken cognizance and taken on file as S.T.C.No.94 of 2016 on the file the learned Judicial Magistrate No.II, (Fast Track Court at Magisterial level), Madurai. Thereafter, the petitioner filed a petition in Cr.M.P.No.2409 of 2017, before the Court below to sent the disputed cheque to the expert to verify the signature, on the ground that he did not issue any cheque to the respondent/complainant and the disputed cheque was stolen by him,



forged his signature and filed the complaint. But, without considering the same, the trial Court dismissed the petition. Challenging the same, the petitioner is before this Court.

4. The learned counsel for the respondent/complainant has admitted that even though the petitioner has claimed that the cheque has been stolen by the respondent/complainant, he has not filed any complaint for missing of cheque. Even though the cheque has been returned on the ground that the drawer's signature differs, on the date, he has no sufficient fund in his account and the petitioner after borrowing the amount has deliberately issued the cheque by putting a signature differently and cheated the respondent. In the above circumstances, there is no necessity to send the cheque for expert opinion. The court below also considered the entire material, rightly dismissed the application filed by the petitioner.

5. I have considered the rival submissions and the materials available on record.

6. It is the admitted case that the cheque has been returned on the ground that the drawer's signature differs. Hence, it could be seen that the signature found in the cheque differs from the admitted signature of the petitioner/accused. In the said circumstances, there is no necessity to send the cheque again for verification by an expert. If at all there is no dispute regarding the signature found in the cheque, then only the cheque can be sent to an expert for comparison. When the signature is admittedly differs, there is no necessity to send the same to an expert to compare the signature. The trial Court considered the same rightly dismissed the application. I find no irregularity or illegality in the order passed by the Court below. Hence, this Civil Revision Case is liable to be dismissed and it is dismissed accordingly.

Sd/-

Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

TO

1. The Judicial Magistrate No. II,
(Fast Track Court at Magisterial level), Madurai.

2. -Do-Thro' The Chief Judicial Magistrate,
Madurai.

+1cc to Mr. P. PARANTHAMAN Advocate in SR. No. 78745

+1cc to Mr. A. RAJA Advocate in SR. No. 78380

PJL

JS/SKN.RSK/SAR.2/3.10.2017/2P-5C

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