



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C.(MD) No.192 of 2016

and

Crl.M.P(MD)No.2675 of 2016

WEB COPY

Rajinesh @ Senthil

... Petitioner

Vs.

Sheeba Arun

... Respondent

Petition filed under Sections 397 read with 401 Cr.P.C, to call for the records pertaining to the order passed in C.M.P.No.1222 of 2015 in C.C.No.18 of 2013 on the file of the Judicial Magistrate, Fast Track No.I, Nagercoil, dated 11.05.2015 and set aside the same in the interest of justice.

For Petitioner

: Mr.T.Selvan

For Respondent

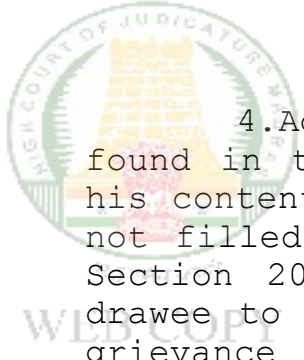
: Mr.T.Jeen Joseph

ORDER

The respondent filed a private complaint against the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881. During the trial, he filed an application under Section 45 of the Indian Evidence Act, 1872 to send the cheque to a handwriting expert alleging that the date and amount mentioned in the cheque were not written by him. The Court below dismissed the said application. Challenging the same, the present Criminal Revision Case has been filed.

2.The case of the petitioner is that the petitioner borrowed a sum of Rs.7 lakhs on 30.12.2011 and in order to discharge the loan amount, he issued cheque dated 15.11.2012 drawn in Axis Bank, Nagercoil Branch and the same was presented for collection. The cheque was returned since the account maintained by the petitioner was closed. Thereafter, the complainant after completing legal formalities filed a private complaint and the learned Judicial Magistrate taken cognizance of the complaint. After closing the evidence on the side of the prosecution witnesses, the petitioner filed a petition to send the disputed cheque to get opinion from the handwriting expert on the ground that the cheque was filled up by the respondent and not by the petitioner. Upon consideration of the entire materials available on record, the Court below has dismissed the said application.

3.I have heard Mr.T.Selvan, learned counsel for the respondent and perused the materials available on record carefully.



4. Admittedly, the petitioner did not dispute the signature found in the cheque or issuance of cheque to the respondent but his contention is that the date and amount found in the cheque was not filled up by him and it is only filled up by the respondent. Section 20 of the Negotiable Instruments Act, 1881 permits the drawee to fill it up and for that the petitioner cannot have any grievance at all. Therefore, the Court below, after considering the case in its proper perspective has rightly dismissed the application. I find no infirmity or irregularity in the order passed by the Court below. Accordingly, the Criminal Revision Case is dismissed. Since the Calender Case is of the year 2013 and the trial in respect of prosecution witnesses has been closed, the trial Court is directed to dispose of the same, within a period of two months from the date of receipt of a copy of this order. Consequently, CrI.M.P(MD)No.2675 of 2016 is closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

The Judicial Magistrate,
Fast Track No.I, Nagercoil,

+One cc to Mr.T.Selvan, Advocate, SR.No.64766

sms

RL/3C/2P/KP/SAR1/20/7/2017

CrI.RC.(MD) No.192 of 2016

and

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