



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.08.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.R.C(MD).No.866 of 2013

and

M.P(MD)No.1 of 2013

WEB COPY

R.D.Santhosh

... Petitioner/Petitioner/Accused

-Vs-

R.Baby

... Respondent/Respondent/Complainant

Prayer : Criminal Revision Case filed under Section 397 r/w 401 and 482 of the Code of Criminal Procedure, praying this Court to call for the records in Cr.M.P.No.4305 of 2013 in C.C.No.261 of 2012 on the file of the learned Judicial Magistrate No.III, Dindigul and to set aside the order passed by the learned Judicial Magistrate No.III, Dindigul in CR.M.P.No.4305 of 2013 in C.C.No.261 of 2012, dated 11.10.2013.

For Petitioner : Mr.Pandi Maharaja
for Perfect Law Associates

For Respondents : No appearance.

O R D E R

Dismissing the Petitioner's application seeking to send the disputed cheque to an expert to find out the hand-writing and age of the signature in the cheque and whether the signature and writing in the cheque are by same person and some other reliefs, the present revision has been filed.

2.The respondent herein filed a private complaint against the Petitioner under Section 138 of Negotiable Instruments Act on the ground that the Petitioner borrowed a sum of Rs.6,50,000/- and in order to discharge the above debt, he issued a cheque drawn on Karur Vysya Bank, Dindigul Branch and when the cheque was presented for collection, it was returned with an endorsement ''insufficient fund'' Thereafter, the present complaint has been filed. The learned Judicial Magistrate has taken cognizance and issued summons to the respondent. Thereafter, the Petitioner had filed an application under Section 45 of the Indian Evidence Act seeking the above relief. The said application was dismissed by the trial Court. Challenging the same, the present Criminal



3.I have heard the submissions of Mr.R.Pandi Maharaja, learned counsel for the Petitioner considered the materials on record.

4.It is the case of the Petitioner that he has never borrowed a sum of Rs.6,50,000/-as alleged in the complaint. Earlier, he borrowed a sum of Rs.1.5 lakhs from the complainant. At that time, he issued a blank cheque and pro-note. Now the complainant used the above cheque and filed the complaint. The Petitioner now filed an application seeking the Court below to send the disputed cheque for experts opinion. The Court below dismissed the same. Aggrieved over the same, the present revision has been filed.

5.A perusal of the records would show that the Petitioner has not disputed the signature found in the cheque. The case of the Petitioner is that the cheque has been given for earlier transaction and using the same, the present complaint has been filed. When the Petitioner did not disputed the signature, there is no purpose in sending it for expert's opinion to verify the signature. So far as the other reliefs i.e., age of the ink is concerned, as there is no facilities in the country to verify the age of the ink, that relief cannot be granted. In the above circumstances, this Court finds no illegality or irregularity in the order of the Court below warranting interference by this Court. Thus the revision fails.

6.Accordingly, the Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is dismissed. Since the Criminal Case is pending from the year 2012, the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS-II)

/Truecopy/

Sub Assistant Registrar

To

The Judicial Magistrate No.III, Dindigul.

vsn

MAS/KP/SAR2:24.08.2017:2P-2C

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