

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1061 of 2018

And

Crl.M.P.No.12370 of 2018

A.Chakravarthy

.. Petitioner

Vs.

S.Jeyaprakash

.. Respondent

Prayer:

Criminal Revision Case filed under Sections 397 r/w 401 of the Criminal Procedure Code seeking to set aside the order dated 30.07.2018 passed in Crl.M.P.No.2527 of 2018 in C.C.No.45 of 2013 on the file of Judicial Magistrate/ Fast Track Court, Kallakurichi, Villupuram District.

For Petitioner : Mr.D.Balachandran

O R D E R

This criminal revision has been filed seeking to set aside the order dated 30.07.2018 passed in Crl.M.P.No.2527 of 2018 in C.C.No.45 of 2013 on the file of the learned Judicial Magistrate/ Fast Track Court, Kallakurichi, Villupuram District.

2.The case of the petitioner is that the respondent herein had preferred a complaint under Section 200 of Cr.P.C. for initiating proceedings under Section 138 of the Negotiable Instruments Act against the petitioner, stating that the petitioner for his family and business expenses had borrowed a sum of Rs.6,00,000/- and a sum of Rs.4,00,000/- (totally Rs.10,00,000/-) on 02.06.2010 and had given a cheque bearing No.317362 of the Lakshmi Vilas Bank, Kallakurichi, for a sum of Rs.10,00,000/- dated 07.08.2012 to the respondent and asked the respondent to present the cheque on 07.08.2012. The respondent presented the said cheque on 13.08.2012 before the Karur Vaisya Bank, Kallakurichi, however it returned as 'Exceeds arrangement'. Thereafter, the respondent issued legal notice to the petitioner on 21.08.2012 and the same was received by the petitioner on 24.08.2012. Thereafter, the petitioner sent reply to the respondent on 29.08.2012. Thereafter, the respondent preferred the complaint as against the petitioner.

3.It is the further case of the petitioner that during trial, he filed petition under Section 293 of Cr.P.C. in CrI.M.P.No.2527 of 2018 seeking to send the impugned cheque for Expert opinion on the ground that the petitioner has not signed the cheque and never handed over any instrument in favour of the respondent. The said instrument was issued for the purpose of security. However, the respondent mis-used the same and filed the complaint.

4.In the said petition, the respondent had filed counter stating that the petitioner has not made out any valid point for comparing his signature with the contents of the cheque.

5.Even during the cross examination of the complainant, a specific question has been raised by the accused pertaining to this aspect, for which, the complainant has answered that he received the cheque duly filled with the contents as well as the signature. Therefore, the signature is not in dispute and sending the cheque for Expert opinion is un-necessary. Even in the reply notice, the petitioner did not specifically deny the cheque as well as the signature.

6.After elaborate discussion, the lower Court dismissed the petition on the ground that the petitioner did not deny the instrument issued in favour of the respondent and even the petitioner itself has specifically admitted that the instrument was issued for security purpose. On one hand accepting the instrument and on the other hand sending the instrument for Expert opinion is un-sustainable.

7.In view of above, this Court not inclined to interfere with the order passed by the lower Court. Accordingly, this criminal revision is dismissed. Consequently, the miscellaneous petition is also closed.

PRI

Sd/-

सत्यमेव जयते
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate/ Fast Track Court,
Kallakurichi, Villupuram District.
+1cc to Mr.D.Balachandran, Advocate S.R.No.64754

KR/8/11/18

CrI.R.C.No.1061 of 2018

And

CrI.M.P.No.12370 of 2018