

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.R.C.No. 691 of 2018
and
CrI.M.P.No. 8034 of 2018

G.Saravanan

... Petitioner

.. Vs ..

S.Purushothaman

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., to set aside the order dated 21.03.2018 passed in C.M.P.No.824/2017 in C.C.No.192 of 2015 on the file of the Judicial Magistrate Court, Arakkonam and allow the revision.

For Petitioner : Mr.A. Gopinath

ORDER

This criminal revision petition is filed against the order dated 21.03.2018 passed by the learned Judicial Magistrate, Arakkonam, in C.M.P.No.824/2017 in C.C.No.192 of 2015. The petition filed under Section 45 of the Indian Evidence Act by the accused in C.M.P.No.824 of 2017 was allowed by the learned Judicial Magistrate, Arakkonam, by observing as follows:-

"He takes a defence that he did not fill up those contents and that it was filled up by respondent. The petitioner only admits his signature. The respondent contends once the signature is admitted the legal presumption arises. On perusal of cross examination, the petitioner had cross examined the PW-1 in respect of handwriting in the disputed cheque. It shows that the petitioner from the beginning has been taking the stand that contents in the cheque were not filled by him. Section 118 of Negotiable Instruments Act deals with Presumption. As per the above provision, such presumption is subject to rebuttal by the respondent. This Court is of the considered view that the petitioner must be given an opportunity to rebut the presumption under Section 118."

2. The learned counsel appearing for the petitioner submitted that on consideration of the facts and circumstances of the case and also taking note of the certain answers elucidated in the cross examination of PW-1 touching upon contends, the Trial Court passed an order under Section 45 of the Indian Evidence Act permitting for experts opinion. After hearing the learned counsel for the petitioner and after pursuing the records and also taking note of the decision reported in (2007) 2 SCC 258 (Kalyani Baskar (Mrs.) Vs. M.S.Sampoornam (Mrs.)), the trial Court has allowed the petition.

3. Considering the facts and circumstances of the case and also considering the answers elucidated in the cross examination of PW-1, I do not find any illegality or irregularity in the orders passed by the Trial Court. Accordingly, this Criminal Revision Petition is dismissed with a direction to the trial Court to dispose of the case as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of this order, after getting necessary opinion. Consequently, connected Miscellaneous petition is closed.

Sd/-
Deput Registrar(CS)

//True Copy//

Sub Assistant Registrar

mm
To

The Judicial Magistrate Court,
Arakkonam.

+ 1 cc to Mr.A.Gopinath, Advocate SR.38206

Cr1.R.C.No. 691 of 2018
and
Cr1.M.P.No. 8034 of 2018

(CS-DR)
EU(27/06/2018)

WEB COPY