

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NOS.314 AND 315 OF 2014 AND
M.P.NOS. 1 & 1 OF 2014

S.Thenbavanam ...Petitioner in both the revisions

Vs.

P.Mohan ...Respondent in both the revisions

Prayer in both the revisions: These Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the orders dated 06.01.2014 made in Crl.M.P.Nos.878 & 879 of 2013 in C.C.Nos.77 & 78 of 2013 by the learned Judicial Magistrate (Fast Track Court), Omalur, Salem District.

For Petitioner : Mr.S.Parthasarathy

For Respondent : Mr.T.Ganesan

COMMON ORDER

These criminal revisions have been filed against the orders dated 06.01.2014 made in Crl.M.P.Nos.878 & 879 of 2013 in C.C.Nos.77 & 78 of 2013 by the learned Judicial Magistrate (Fast Track Court), Omalur, Salem District.

2 The learned counsel for the petitioner represented that there is another similar revision is pending in Crl.R.C.No.314 of 2014 and it was not listed today. Hence this Court is inclined to dispose of both the revisions, even though, the other case was not listed, since the matter to be decided in both the revisions is one and same and both the counsel requested the Court to hear both the cases together.

3 The respondent herein filed two complaints against the petitioner before the learned Judicial Magistrate (Fast Track), Omalur, Salem District, under Section 138 & 142 of the Negotiable Instruments Act, which were taken on file in C.C.Nos.77 & 78 of 2013. Pending the above cases, the petitioner/accused had filed miscellaneous petitions in

Crl.M.P.Nos.878 & 879 of 2013, under Section 45 of the Indian Evidence Act, to send the cheques in question for expert opinion to ascertain the forgery of handwriting and difference of the inks between the signature and other letters. The learned Magistrate, after giving due opportunities to both the parties, had dismissed both the petitions, by orders dated 06.01.2014.

4 Aggrieved against the above orders dated 06.01.2014, the accused has preferred the present criminal revisions before this Court.

5 The learned counsel for the petitioner would submit that the petitioner did not issue any cheques to the respondent/complainant and the subject cheques had been issued to one Udayakumar for security purpose. The said Udayakumar set up this respondent/complainant to file false complaint with an intention of unlawful gain. Further the petitioner, at the time of issuing the subject cheques, had only signed the cheque and the recitals found in the cheques were not filled by the petitioner/accused. Hence it is just and necessary to compare the recitals found in the cheque, which will come out the truth. The learned Magistrate failed to consider the above facts and dismissed both the petitions, which warrants interference of this Court.

6 The learned counsel for the respondent would submit that the petitioner/accused had admitted the signatures found in the cheques and hence he has to prove that there is no legally enforceable debt by producing documents and instead of doing so, he filed these petitions, only with an intention to prolong and protract the case.

7 Heard the learned counsel appearing on either side and perused the materials available on record.

8 The petitioner/accused has admitted the signature found in the subject cheques and he contended that only the recitals in the cheques were not filled up by the petitioner/accused. Once the signature is admitted, there is no question of sending the subject cheques for expert's opinion and no purpose would be served. The petitioner/accused is bound to rebut the presumption and is bound that there was no legally enforceable debt, at the time of trial. This Court is of the view that there is no perversity in the orders impugned in these revisions.

9 Hence, both the criminal revisions are dismissed.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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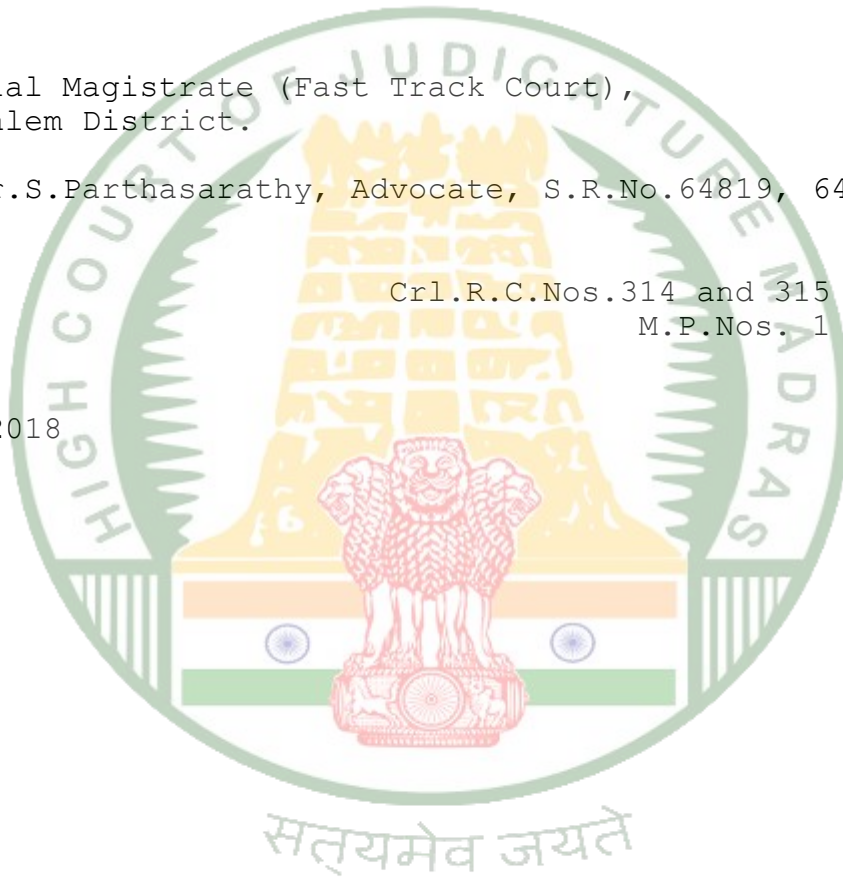
To

The Judicial Magistrate (Fast Track Court),
Omalur, Salem District.

+2cc to Mr.S.Parthasarathy, Advocate, S.R.No.64819, 64820

Crl.R.C.Nos.314 and 315 of 2014 and
M.P.Nos. 1 & 1 of 2014

PP(CO)
CS/30/10/2018



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