

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2018

C O R A M

THE HON'BLE Mr.JUSTICE N. ANAND VENKATESH

Criminal Revision No.1281 of 2011
and
M.P.No.1 of 2011

Sriram
Proprietor
M/s.Aalayam Televisions,
No.13, Prithvi Avenue,
1st Street,
Abiramapuram,
Alwarpet, Chennai - 600 018. ... Petitioner (Accused)

Versus

M/s.Safire Lithographers
Represented by
Mr.Sivaprakash
No.31, Balaji Street,
Royapettah,
Chennai - 600 014. ... Respondent (Complainant)

PRAYER: Criminal Revision Petition filed under Section 397 R/w 401 Code of Criminal Procedure praying to call for the records in C.C.No.4437 of 2004 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and set aside the order of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai passed in CrI.M.P.No.739 of 2011 dated 13.07.2011 in C.C.No.4437 of 2004

For Petitioner ... Mr.M.Mohammed Rafi

For Respondent ... Mr.R.John Sathyan

ORDER

This Criminal Revision has been filed against the order dated 13.07.2011 made in M.P.No.739 of 2011, which was filed by the petitioner/accused with the prayer (i) the cheque in dispute be sent for the examination by the Government forensic expert to find out whether the date of the cheque is altered by way of an over writing and to (ii) send the Exhibit D-3, Voucher and the

admitted signature of DW-1 in his evidence as well as in the Exhibit D-2, for the comparison by a handwriting expert and to seek his opinion to find out whether the signature in D-2, D-3 and in the evidence of DW-1 are one and the same.

2. The learned Magistrate in the order under question has found that the alteration in the date of cheque is visible and it does not require an expert opinion. Further finding of the learned Magistrate is that the signature of DW1, namely the manager of the Complainant cannot be compared from the available documents and hence, on that ground, the second prayer was also rejected.

3. It is a complaint filed under Section 138 of the Negotiable Instruments Act in the year 2004 and it is seen that the CrI.M.P.No.739 of 2011 has been filed only in the year 2011 almost at the fag end of the trial. The learned counsel for the petitioner brought to my notice that the voucher and also the cheque which is the subject matter of the complaint, have already been marked in the course of trial.

4. Insofar as the cheque is concerned, the learned Magistrate has found that the correction is visible and I do not find any merit to interfere with the findings. Insofar as the voucher is concerned, there is no need to send it for comparing the signatures, since if ultimately the entire liability revolves around this voucher which has been filed to support the defence of the petitioner/accused, it falls within the realm of appreciation of evidence and therefore, it is not necessary to send this voucher for comparison of signature.

5. This Court finds no ground to interfere with the order of the learned Magistrate, since this Court does not find any palpable error or non-compliance of the provisions of any law or any perversity in the order passed by this learned Magistrate.

6. The Complaint is of the year 2004 and it is stated to be at the stage of final arguments. There shall be a direction to the learned VIII Metropolitan Magistrate, Saidapet, Chennai to assess independently the merits of the case projected by either side without being influenced by this Order and dispose of the complaint in C.C.No.4437 of 2004 in accordance with law, within a period of one month from the date of receipt of a copy of this Order.

7. In the result, the Criminal Revision is disposed of with the above directions.

8. Registry of the learned VIII Metropolitan Magistrate, Saidapet, Chennai is directed to report the compliance, after the disposal of the complaint to this Court. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The XVIII Metropolitan Magistrate, Saidapet, Chennai.
- 2.-do- Thro' The Chief Metropolitan, Egmore, Chennai-8.
- 3.The public Prosecutor, High Court, Madras.

Copy to: The Section Officer,
Criminal Section, High Court, Madras.

+ 1 cc to Mr.M. Mohammed, Advocate Sr.36718

Criminal Revision No.1281 of 2011
and M.P.No.1 of 2011

SV(CO)
EU(28/06/2018)

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