IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 30.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Revision No.255 of 2013
and M.P.No.1 of 2013

K.B.Lakshmanaraj ... Petitioner

.. Vs ..

S.Regupathy Jagadeeswaran ... Respondent

PRAYER: Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to call for the records relating to the Order dated 30.11.2012 made in Crl.M.P.No.9590/2012 made in S.T.C. No.871/2011 on the file of the learned Judicial Magistrate No.II, Pollachi and set aside the same.

For Petitioner : Mr.E.Durai Vaiyapuri for Mr.N.Manokaran

For Respondent : Ms.N.Premalatha for Mr.R.Nalliyappan

JUDGMENT

This Criminal Revision is filed to call for the records made in Crl.M.P.No.9590/2012 made in S.T.C.No.871/2011 by the learned Judicial Magistrate No.II, Pollachi and set aside the same.

2. The respondent filed a private complaint against the revision petitioner during the pendency of S.T.C.No.871/2011 on the file of the Judicial Magistrate No.II, Pollachi, for the offence under Section 138 of Negotiable Instruments Act. For which, the revision petitioner filed a petition under section 45 of Evidence Act to compare the disputed signature found in the cheque with the admitted signature and the same was sent to the Tamil Nadu Forensic Department of Madras for comparison and opinion.

3. The learned counsel for the respondent stated in his affidavit that no document of admitted signature has been filed. However, the Judicial Magistrate No.II, Pollachi, in his order dated 30.11.2012 has stated that the evidence on the side of the petitioner not yet commenced and it can be filed at the time of defence evidence. Against which, the revision petitioner is

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before this Court with this Criminal Revision Case.

4. As stated by the respondent, the revision petitioner has not filed any document containing the admitted signature. However, the Magistrate has not considered the said fact and has dismissed the petition on the other reason that the trial is not yet commenced and the petitioner can file the proof of admitted signature at the stage of defence evidence. Though, the reason stated by the Magistrate is not acceptable but at the same time, the revision petitioner has not been deprived of by way of this order. Moreover, as stated by the respondent, he has not yet filed any document containing his admitted signature.

5. In view of the above, the Criminal Revision is dismissed however, liberty is granted to the petitioner to file a petition along with the documents containing his admitted signature before the trial Court. On filing the same, the learned Magistrate is directed to consider the petition on merits and in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ssi/Jer

To
1. The Judicial Magistrate No.II, Pollachi.

+1cc to Mr.N.Manokaran, advocate sr.no.59907
+1cc to Mr.R.Nalliyappan, Advocate sr.no.59749

Criminal Revision No.255 of 2013
and M.P.No.1 of 2013

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nr 16/10/2018

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