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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.283 of 2014
and M.P.No.1 of 2014

Yuganathan

...Petitioner

Vs.

Kanmani

...Respondent

Prayer: This Criminal Revision filed under Sections 397 and 401 of Code of Criminal Procedure to call for the records in connection with the Crl.M.P.No.3333 of 2013 in C.C.No.144 of 2013 pending on the file of the learned Judicial Magistrate, No.II, Thirupathur, Vellore District and set aside the order dated 04.02.2014.

For Petitioner : Mr.E.Kannadasan

For Respondent : No appearance

O R D E R

The Criminal Revision has been filed by the petitioner to call for the records in connection with the Crl.M.P.No.3333 of 2013 in C.C.No.144 of 2013 pending on the file of the learned Judicial Magistrate, No.II, Thirupathur, Vellore District and set aside the order dated 04.02.2014.

2. The respondent herein had filed a private complaint before the learned Judicial Magistrate, No.II, Thirupathur, Vellore District against the revision petitioner under Section 138 of Negotiable Instruments Act. After completing legal formalities, the learned Judicial Magistrate taken the complaint on file in C.C.No.144 of 2013. During the pendency of the case, the revision petitioner filed a Crl.M.P.No.3333 of 2013 under Section 45 of Indian Evidence Act, seeking direction to send the cheque to the Forensic Department for getting expert opinion to ascertain the signatures. The learned Magistrate after giving an opportunities to both sides, dismissed the petition on the



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ground that the revision petitioner has not denied the signatures. Even cross examination of the complainant and during the proceedings under section 313 questioning, he has not denied the signatures in the cheque. At the time of defense evidence, he has filed the petition under Section 45 of Evidence Act, which clearly shows that only to protract the case, the respondent filed the petition to send the cheque for expert opinion in C.C.No.144 of 2013 on the file of the learned Judicial Magistrate II, Thirupathur, Vellore district.

3. Perused the materials available on record.

4. It is not in dispute that the respondent filed a complaint against the revision petitioner before the learned Judicial Magistrate No.II, Thirupathur, Vellore District. After completing the prosecution evidence and completion of 313 proceedings, the matter was posted for defense evidence. At that time, the revision petitioner had filed a petition in Cr.M.P. 3333 of 2013 seeking direction to send the cheque to the Forensic Department for getting expert opinion.

5. The learned Counsel for the petitioner has also admitted that after receipt of legal notice, neither the petitioner has not paid the cheque amount nor sent any reply. He has not filed a memo to inspect the cheque. As stated by the learned Judicial Magistrate that he has not raised any question with the complainant during the cross examination and also he has not disputed in 313 proceedings. Since, she has filed a petition before the learned Magistrate only at the time of defence evidence, which clearly shows that only to protract the case, she has filed this petition. There is no merit in this revision petition. The order passed by the learned Judicial Magistrate No.II, Thirupathur has no perversity.

6. Therefore, this Criminal Revision Case is dismissed. Since, the matter is pending from the year 2013, the Judicial Magistrate No.II, Thirupathur is directed to dispose the case within a period of one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Ccc)

//True Copy//

Sub Assistant Registrar

rli/ksa-2



To

The Judicial Magistrate, No.II,
Thirupathur, Vellore District.

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+1cc to Mr.E.Kannadasan , Advocate SR.No.68692

Cr1.R.C.No.283 of 2014
and M.P.No.1 of 2014

ASK(30/11/2018)