

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.512 of 2017 and
Crl.M.P.Nos.4509 of 2017 & 15381 of 2018

R.M.Mahalakshmi

...Petitioner

Vs.

N.G.Vadivu

...Respondent

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure to call for records and to set aside the order passed by the learned Metropolitan Magistrate, Fast Track Court No.1, Allikulam, Chennai - 3 in M.P.No.1386 of 2014 in C.C.No.4011 of 2011 dated 03.01.2017.

For Petitioner : Mr.D.N.Dhurgasha

For Respondent : Mr.V.Neethidurai

ORDER

The criminal revision case is filed against the order passed by the learned Metropolitan Magistrate, Fast Track Court I, Egmore at Allikulam, Chennai, dismissing the petition in M.P.No.1386 of 2014 filed under Section 45 and 73 of Indian Evidence Act, seeks Expert's opinion to ascertain the variation of initial "R" and that of signature appeared in Ex.P.1 and Ex.P2 marked before the trial Court. After hearing both sides, the learned Magistrate dismissed the petition by order dated 03.01.2017. The said order is put to challenge in the present criminal revision case.

2 According to the learned counsel appearing for the petitioner that there appears to be some discrepancy and variation in the initial found in Ex.P1 and Ex.P2 and therefore, it was necessary to obtain Expert's opinion with regard to the same. According to the learned counsel, the defence of the accused is entirely depending on verification of the initial as

found in the above said exhibits and only on such verification by the Expert, the truth of the transaction could be ascertained.

3 On the other hand, it was the contention of the complainant that the petition as such was filed with an ulterior motive, in order to evade conclusion of the trial and also the payment of the amount to the complainant. The petition as such, lacks in bona fides and the same was filed only to achieve the collateral purpose.

4 The learned Magistrate, after considering the submissions, has passed the detailed order as to how such petition was not to be entertained at the instance of the petitioner/accused and the learned Magistrate has rightly dismissed the petition by the impugned order. The operative portion of the order is extracted hereunder to appreciate as to how the order passed by the learned Magistrate is well founded:

"It is stated by the petitioner/accused that the signature appeared in Ex.P.1 and Ex.P.2 are not genuine and it is forged for the purpose of this case. Further it is submitted that initial 'R' is varied both in Ex.P1 and Ex.P2 and the signature appeared in Ex.P3 is different from P1 and P2. But the petitioner/accused haven't stated which is the admitted signature. Whether Ex.P3 is a document with her admitted signature is not clearly mentioned either in her petition or in the argument.

Further in Ex.P.7 the reply notice it is mentioned as below "My client had entrusted 4 blank cheques all drawn on Punjab National Bank, Purasaiwakkam Branch, Chennai, together with 4 blank signed pronotes to your client in the year 2000".

Hence, as per the above it is admitted by the accused that she has given blank cheques and blank pronotes to the complainant, which impliedly means that the she has given on unfilled cheques and pronotes with her signature.

Further more the PW1 has filed the proof affidavit long back in 09.10.2012, that time no objections were found to be made while marking the said documents Ex.P.1, Ex.P.2 and Ex.P.3 and further the 313(i)(b) Cr.P.C questioning was heard on 16.10.2012, even that time the petitioner/accused haven't uttered any words about

the variations in her signature.

Having kept silent for a very long time, this petition is filed very belatedly in vague manner without mentioning about admitted signature with that of the disputed one.

The petitioner has relied upon various judgments, but it is a settled proportion law that if the purpose of filing petition U/s.45 of Indian Evidence Act, is a delaying tactic, then the petition is fit to be dismissed.

Hence, considering all the above this petition is stands dismissed."

5 From the above, it is very clear that the petitioner herein, who is accused, was only attempting to drag on the proceedings under the pretext of filing petition under Section 45 and 73 of Indian Evidence Act and therefore, the trial Court has rightly dismissed the petition as it devoid of merits. This Court does not think that the said order requires interference of this Court and therefore the present criminal revision is devoid of any merits and the same is accordingly dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

The Metropolitan Magistrate,
Fast Track Court No-I, Allikulam,
Egmore, Chennai.

+1cc to Mr.V.Neethidurai, Advocate SR.No.80674

CrI.R.C.No.512 of 2017 and
CrI.M.P.Nos.4509 of 2017 & 15381 of 2018

RK(CO)
GMV(18/12/2018)