



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.08.2018

CORAM

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THE HONOURABLE MRS. JUSTICE R. THARANI

CRL.R.C(MD) No.235 of 2018
and
Crl.M.P.(MD) No.3045 of 2018

G.Prabakaran

.... Petitioner/Petitioner/
Accused

-Vs-

V.Jesudhas

...Respondent/Respondent/
Complainant

Prayer: Criminal revision case is filed under section 397(1) r/w. 401 Cr.P.C., against the order in Crl.M.P.No.2321 of 2016 in S.T.C.No.395 of 2008 dated 21.09.2017 on the file of the learned Judicial Magistrate No.2, Trichy.

For Petitioner	:	Mr.G.Prabhu Rajadurai
For Respondent	:	No Appearance

O R D E R

This Criminal Revision case is filed against the order passed in Crl.M.P.No.2321 of 2016 in S.T.C.No.395 of 2008 dated 21.09.2017 on the file of the learned Judicial Magistrate No.2, Trichy.

2.On the side of the petitioner, it is stated that the petitioner has borrowed a sum of Rs.10,000/- (Rupees Ten Thousand only) from the respondent in the year 1998 and he has issued a cheque during that period. Subsequently, the petitioner closed the account in the year 2002. The respondent misused the cheque and presented the cheque for collection in the year 2008. When the petitioner filed a petition for sending the cheque for the opinion of the hand writing expert, the same was dismissed by the lower Court. Against the order of dismissal, the petitioner has filed this Criminal Revision Case.

3.On the side of the petitioner, it is further stated that Ex.P.1 is to be compared with Ex. D1 and Ex.X1. The petitioner has not denied the signature in the cheque leaf. He is denying only the wordings in the cheque leaf and the petitioner is to be given an opportunity to establish that no consideration was passed on the cheque in question.



4. On the side of the respondent, it is stated that the petitioner has admitted the signature and there is no necessity to prove the handwriting through an expert and this petition is only to drag on the case and prayed to dismiss the petition.

5. The learned counsel appearing for the petitioner relied upon the Judgment of the Supreme Court in the case of *Kalyani Baskar Vs. M.S. Sampooranam* reported in (2007) 2 Supreme Court Cases 258, which reads as follows:-

"he directs to send the document for enabling the same to be compared by a handwriting expert because even in adopting this course, the purpose is to enable the Magistrate to compare the disputed signature or writing with the admitted writing or signature of the accused and to reach his own conclusion with the assistance of the expert."

6. The learned counsel appearing for the petitioner relied upon the another Judgment of Supreme Court in the case of *T. Nagappa Vs. Y.R. Muralidhar* reported in (2008) 5 Supreme Court Cases 633 and the case of *A. Sivagnana Pandian Vs. M. Ravichandran* reported in 2011 2MLJ (Cr1) 595.

7. It is the duty of the petitioner to produce the admitted handwritings of the respondent. Ex.D.1 and Ex.X.1 the documents to be compared with Ex.P.1, are denied by the respondent. Only admitted handwriting can be sent for comparison. Since the documents to be compared are denied by the respondent and since no other admitted document is filed by the petitioner sending the handwriting of the respondent for expert opinion is not possible. In the above circumstances there is nothing to interfere in the order of the trial Court and the petition is liable to be dismissed.

8. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar (CS-II)

To
The Judicial Magistrate No.2,
Trichy.

CRL.R.C (MD) No.235 of 2018
and

Cr1.M.P. (MD) No.3045 of 2018
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