



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 12.04.2018
DELIVERED ON : 24.04.2018

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.716 of 2017
and
Crl. M.P.(MD)No.11221 of 2017

R.Geetha (a) Geethalakshmi .. Petitioner

Vs.

K.Rajagopal .. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining the order passed by the learned Judicial Magistrate No.I, Dindigul made in Cr.M.P.No.1291 of 2016 in C.C.No.41 of 2014 dated 14.07.2017 and set aside the same.

For Petitioner	: Mr.A.Chandrakumar
For Respondent	: Mr.A.Hariharan

ORDER

Heard Mr.A.Chandrakumar, learned counsel appearing for the petitioner and Mr.A.Hariharan, learned counsel appearing for the respondent.

2.This appeal has been filed to set aside the order passed by the learned Judicial Magistrate No.I, Dindigul made in Cr.M.P.No.1291 of 2016 in C.C.No.41 of 2014 dated 14.07.2017.

3.On the side of the petitioner, it is stated that on 19.12.2013, the respondent herein filed the petition in C.C.No.41 of 2016 before the learned Judicial Magistrate No.I, Dindigul under Section 200 of Cr.P.C. r/w. 138 and 142 of Negotiable Instruments Act, wherein the petitioner herein is the accused. It is stated that on 21.09.2013, the petitioner borrowed a sum of Rs.5,00,000/- (Rupees Five Lakhs only) from the respondent, and when the respondent demanded the amount, it is stated that the petitioner issued a cheque on 21.10.2013 and that the cheque was dishonoured with an endorsement of "Funds Insufficient" on 06.11.2013. The respondent filed the private complaint against the petitioner in C.C.No.41 of 2014. The petitioner filed the petition in Cr.M.P.No.1291 of 2014 under Section 45 of the Indian Evidence Act to sent the disputed cheque to handwriting expert to compare



the signature of the petitioner found in the cheque with the other writings found in the cheque and also to find out whether both the signature and other writings found in the cheque have been written by the petitioner. The learned Judicial Magistrate No.II, Dindigul dismissed the petition.

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4.On the side of the petitioner, it is stated that the learned Judicial Magistrate No.I, Dindigul, failed to provide an opportunity to the petitioner to prove her innocence. It is stated that the petitioner denied the signature even in the reply notice sent by her. It is further stated that the cheque leaf was stolen by her husband during the quarrel between them and he misused the cheque through the complainant. The petitioner is restricting the prayer only to the comparison of the signature. He relied on the judgment passed by this Court in CrI. R.C.(MD)No.525 of 2012 dated 20.07.2017.

5.On the side of the respondent, it is stated that the petitioner has admitted her signature in the cheque leaf. He further stated that in the Cr.M.P.No.1291 of 2016, the petitioner has taken a different stand that the signature is the forged one. Taking a different point of view at different point of time is not permissible. He further submitted that as the signature is already admitted, the petitioner cannot ask the handwriting expert's opinion or for the age of the ink used.

6.Records perused. In the reply notice sent to the respondent, the petitioner has stated that the petitioner has signed the blank cheque, which was taken away by her husband and those cheques were used by filling up the contents by somebody else. In the Cr.M.P.No.1291 of 2016, the petitioner has taken a different view that the signature is a forged one. In the cross examination he has admitted that somebody else has filled up the contents of the cheque and as such the aforesaid judgment is not applicable for the present case. Admittedly, the petitioner cannot take two different stand upon the same matter. Under Section 73 of Indian Evidence Act, the learned Magistrate can peruse the records and can come to the conclusion regarding the signature of the petitioner by comparing the cheque leaf with the admitted signatures available in the case records.

7.With the above observation, this petition is dismissed. Consequently, CrI. M.P.(MD)No.11221 of 2017 is closed.

Sd/-

Assistant Registrar(T & P)

/True copy/



Mrn
To

1.The learned Judicial Magistrate No.I,
Dindigul.

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+1 cc to M/S.A.HARIHARAN, Advocate SR.NO.62929

Cr1. R.C.(MD)No.716 of 2017
24.04.2018

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