



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2018

CORAM

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

CrI.R.C. (MD) No.624 of 2018

&

CrI.M.P. (MD) No.9554 of 2018

D.Antony Raj

.. Petitioner/Petitioner/
Accused

vs.

S.Perumal

.. Respondent/Respondent/
Complainant

Criminal Revision Petition filed under Sections 397 and 401 of the Criminal Procedure Code, against the order dated 09.10.2018, passed in Cr.M.P.No.5187 of 2018 in S.T.C.No.2 of 2014, on the file of the Judicial Magistrate Court No.I, Tirunelveli.

For Petitioner : Ms.K.Abiya

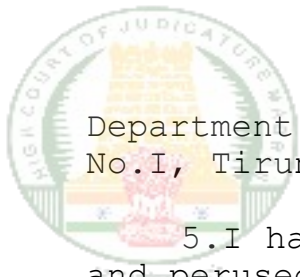
ORDER

This Criminal Revision has been filed against the order dated 09.10.2018, passed in Cr.M.P.No.5187 of 2018 in S.T.C.No.2 of 2014, on the file of the Judicial Magistrate Court No.I, Tirunelveli.

2.The case of the revision petitioner is that the respondent filed a complaint in S.T.C.No.2 of 2014 under Section 200 of Cr.P.C. for the offences under Sections 138 and 142 of the Negotiable Instruments Act before the Judicial Magistrate Court No.I, Tirunelveli. After completion of all the formalities and when the enquiry was commenced, the petitioner has filed a petition under Section 45 of the Indian Evidence Act, to send the disputed cheque to the Forensic Department to examine the handwritten and signatures found in the cheque. The said petition was resisted by the respondent/complainant and after giving opportunity and hearing both sides, the learned Judicial Magistrate No.I, Tirunelveli, came to the conclusion that the revision petitioner has filed petitions one after another and after four years, he filed the petition under Section 45 of the Indian Evidence Act and also came to the conclusion that the said petition was not filed for a genuine reason and only with a view to protract the case, he has filed the petition and dismissed the same.

3.Aggrieved by the dismissal of the said petition, the petitioner has filed the present Criminal Revision Petition.

4.The learned counsel for the petitioner submitted that the petitioner has not received any notice and therefore, he has no occasion to take the defence and if an opportunity is given to him, he would prove his defence and therefore, the learned Judicial Magistrate No.I, Tirunelveli, ought to have given an opportunity to the revision petitioner to prove his defence, allowed the petition and the disputed cheque should have been sent to the Forensic



Department. Hence, the order of the learned Judicial Magistrate No.I, Tirunelveli, warrants interference by this Court.

5.I have heard the learned counsel appearing for the petitioner and perused the materials on record.

WEB COPY

6.Admittedly, the respondent filed the complaint against the revision petitioner in S.T.C.No.2 of 2014 before the Judicial Magistrate Court No.I, Tirunelveli, and the disputed cheque was issued in the year 2013. The complaint was filed in the year 2014 and the same is pending for more than 4 years and now, from the reading of the impugned order, it is seen that the petitioner is in the habit of filing petitions one after another and having failed to succeed in that way, he filed the petition invoking Section 45 of the Indian Evidence Act after examination of witnesses and when the matter was posted for arguments stage. Though he has not disputed the receipt of statutory notice and when he received summons on 24.10.2013, he has not taken any steps to inspect the disputed cheque. Therefore, under the said circumstances, he cannot approach the court at the time of arguments, which shows that the petitioner has come to this Court with unclean hands with a view to protract the enquiry. Further, he has filed the petition with malafide intention and therefore, this Court does not find any perversity in the order passed by the learned Judicial Magistrate No.I, Tirunelveli. There is no merit and no sound reason to interfere with the order of the learned Judicial Magistrate No.I, Tirunelveli. Hence, this Criminal Revision Petition is dismissed on merits at the admission stage itself. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CRL.SIDE)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Judicial Magistrate No.I, Tirunelveli.

Copy to:

The Section Officer, (2 Copies)
Criminal Section (Records)
Madurai Bench of Madras HighCourt,
Madurai.

+1cc to M/s.K.Abiya, Advocate Sr.No.96203

SMN2

KM/BK/SAR1/17.12.2018/2P/5C