

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.01.2019
CORAM:
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
Crl.O.P.No. 749 of 2019
and
Crl.M.P.No. 486 of 2019

P.Ramalingam

...Petitioner

Vs.

S.Prabu

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed by the learned District-cum-Judicial Magistrate, Uthiramerur, Kanchipuram District in C.M.P.No.2474 of 2018 in C.C.No.72 of 2016 dated 28.12.2018 and allow the C.M.P.No.2474 of 2018.

For Petitioner : Mr. K.M.Balaji

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below, dismissing the petition filed by the petitioner under Section 293 Cr.P.C, to send the disputed cheque to get the opinion of the hand writing expert and also for the purpose of ascertaining the age of the ink found in the cheque.

2. The petitioner is facing trial before the Court below for an offence under Section 138 of Negotiable Instruments Act. The petitioner has already cross-examined, the complainant and the case was at the stage of defence evidence. The petitioner has chosen to file the petition seeking for two mutually contradictory reliefs. On the one hand, the petitioner is disputing the signature found in the cheque and therefore he wants it to be compared with the signature found in the acknowledgment card. On the other hand, the petitioner also wants the age of the ink to be ascertained by an expert. This contingency will arise only if the petitioner accepts the signature found in the cheque.

3. The Court below has dismissed the petition filed by the petitioner, mainly on the ground that the signature found in the acknowledgment card can never be a subject matter of the comparison with the signature found in the cheque. The Court below has also found that the petitioner has sufficiently cross-examined P.W.1 and the petitioner has also examined two

witnesses on his side. The Court below has further found that the contentions that have been put forth by the petitioner can be considered only at the time of appreciation of the evidence and the present petition has been filed only with a view to drag on the proceedings.

4. This Court does not find any illegality or infirmity in the order passed by the Court below. The petition filed by the petitioner on the face of it is not maintainable, since the reliefs sought for by the petitioner are mutually contradictory. One portion of relief, disputes, the signature found in the cheque and the other portion of the relief accepts the signature and wants the cheque to be sent for determination of the age of the ink. This Court does not find any ground to interfere with the order passed by the Court below.

5. In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings within a period of three months from the date of receipt of copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

lpp/vsa

To

The District-cum-Judicial Magistrate,
Uthiramerur,
Kanchipuram District.

सत्यमेव जयते

Cr1.O.P.No. 749 of 2019
and

Cr1.M.P.No. 486 of 2019

GSP (29/01/2019)

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