



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1023 of 2018
and
CRL.MP.No.12055 of 2018

D.Sabarinathan .. Petitioner/Petitioner/Accused
Vs.

P.Rajendrakumar .. Respondent/Respondent/Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the entire records in connection with the order dated 27.08.2018 passed in CMP No.4409 of 2018 in STC No.215 of 2017 on the file of the learned Judicial Magistrate Fast Track Court, No.I, Erode and set aside the same.

For Petitioner : Mr.E.P.Senniyangiri
For Respondent : Mr.Naveenkumar Murthi

O R D E R

This Criminal Revision has been filed to set aside the order dated 27.08.2018 passed in CMP No.4409 of 2018 in STC No.215 of 2017 on the file of the learned Judicial Magistrate No.1, Fast Track Court, Erode.

2. The respondent filed the complaint under Section 200 Cr.P.C for the offence under Section 138 of Negotiable Instruments Act in STC.No.215 of 2017 on the file of the learned Judicial Magistrate No.1, Fast Track Court, Erode. During the pendency of the case, the petitioner/accused filed the petition under Section 45 of The Evidence Act in Crl.M.P.No.4409/2018 to send the disputed cheque to the Forensic Department for getting expert opinion. The said petition was dismissed on 27.08.2018, as against the said order, the present revision has been filed by the accused.

3. The learned counsel for the petitioner would submit that though the petitioner/accused admitted the signature, he denied that the cheque was not filled by him.



4. Heard the learned counsel for the petitioner, the learned counsel for the respondent and also perused the materials on record.

5. On a perusal of the evidence of the petitioner/accused, it is seen that he admitted the signature in the disputed cheque and he has not denied the execution of cheque, whereas the cheque is not filled by him. Therefore, he has invoked Section 45 of the Indian Evidence Act to send the disputed cheque to Forensic Department for getting the expert opinion. The Court below dismissed the petition on the ground that the petitioner/accused has not filed the admitted signature. Once the signature in the cheque is admitted, it is for the accused to rebut the presumption that there is no legally enforceable debt.

6. In the circumstances, the petitioner/accused admitted the signature and also he has not denied the execution of the cheque, there is no use of sending the disputed cheque to the Forensic Department. Mere non denial of the handwriting in the cheque is not the sole ground to succeed the criminal complaint. Once the signature is admitted, the expert opinion will not help the revision petitioner/accused to defend the case. If he has any valid ground, he can establish in the manner known to law, but not sending cheque for expert opinion that who had filled the cheque.

7. This Court finds no merit in this revision. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

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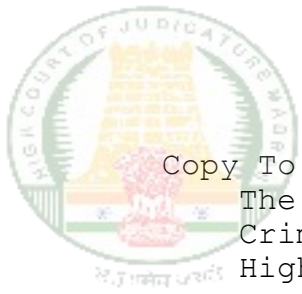
Sub Assistant Registrar

kmi

To

1. The Judicial Magistrate,
Fast Track Court-1,
Erode.

2. The Public Prosecutor,
High Court, Madras-104.



Copy To
The Section Officer,
Criminal Section,
High Court, Madras-104.

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+1cc to Mr.E.P.Senniyangiri, Advocate, S.R.No.30358
+1cc to Mr.Naveenkumar Murthi, Advocate, S.R.No.30323

Cr1.R.C.No.1023 of 2018

VBA (CO)
CS/07/01/2020