

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.220 of 2019 and

Crl.M.P.No.2322 of 2019

K.S.Govindaraj

...Petitioner/Accused

-Vs-

J.Palani

...Respondent/Complainant

This Criminal Revision Petition is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 03.01.2019 made in C.M.P.No.4641 of 2018 in S.T.C.No.2036 of 2017 on the file of the learned Judicial Magistrate No.I, Ponneri.

For Petitioner : Mr.B.R.Shankaralingam

O R D E R

The respondent has filed a private complaint against the petitioner under Section 200 of Cr.P.C. for the offence under Section 138 of Negotiable Instruments Act, which was taken on file in S.T.C.No.2036 of 2017. Pending the above case, the petitioner/accused has filed a miscellaneous petition under Section 45 of the Indian Evidence Act, seeking to send the disputed cheque for Expert's opinion. The said petition was dismissed by order dated 03.01.2019 by the learned Magistrate on the ground that the petitioner/accused has admitted his signature. Aggrieved against the order dated 03.01.2019, the accused has preferred the present criminal revision before this Court.

2 According to the learned counsel for the petitioner, even though the signature found in the cheque has been admitted, the recitals of the same was not filled by the petitioner and hence he seeks to send the disputed cheque to the Forensic Department for getting Expert's opinion in order to find out the age of the ink. The trial Court has failed to consider the above fact and dismissed the petition, which warrants interference.

3 Heard the learned counsel appearing for the petitioner and perused the materials available on record.

4 On a perusal of the entire records, it reveal that the petitioner/accused has admitted his signature and only disputed the recitals of the same hence he sought to send the disputed

cheque to Forensic Department to find out the age of the ink. While dismissing the petition, the learned Magistrate has stated that unfortunately in our country, there is no facility to find out the age of the ink. However, when the petitioner/accused has admitted his signature found in the disputed cheque, it is for him to prove that the cheque was not issued towards discharge of legally enforceable debt. It is always open to him to prove his defence during trial in the manner known to law. Hence this Court does not find any perversity or infirmity in the order passed by the learned Magistrate and finds no merit in the revision.

5 In the result, the criminal revision case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1.The Chief Judicial Magistrate,
Thiruvallur District.

2.The Judicial Magistrate No.I, Ponneri.

+lcc to Mr.B.R.Shankaralingam, Advocate sr.no.12485

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nr 26/03/2019

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