

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN
Crl.R.C.No.297 of 2019
and
Crl.M.P.No.3482 of 2019

R.Gopal

.. Petitioner

Vs.

S.Thirusangu

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records in connection with Crl.M.P.No.97 of 2019 in C.C.No.13 of 2016 on the file of the Judicial Magistrate Court, (Fast Track), Mayiladuthurai and set aside the order dated 05.02.2019.

For Petitioner : Mr.C.T.Saravanan

O R D E R

This Criminal Revision has been filed to set aside the order dated 05.02.2019 passed in Crl.M.P.No.97 of 2019 in C.C.No.13 of 2016 on the file of the learned Judicial Magistrate, (Fast Track Court), Mayiladuthurai.

2. The respondent filed a private complaint against the revision petitioner under Section 200 Cr.P.C for the offence under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate No.2, Mayiladuthurai in C.C.No.13 of 2016. After taking cognisance of the offence, the matter was posted for enquiry. PW-1 was examined on 05.01.2017 and after two years i.e., on 05.12.2018 he was cross-examined. Thereafter, the revision petitioner/accused has filed a petition under Section 45 of Indian Evidence Act seeking to send the disputed cheque to Forensic Lab for expert opinion. The said petition was dismissed by the learned Judicial Magistrate, Mayiladuthurai, on 05.02.2019. As against the said order, the present revision has been preferred before this Court.

3. The learned counsel for the petitioner would submit that soon after completing the cross-examination, the petitioner has filed the petition. The learned Judicial Magistrate,

Mayiladuthurai, dismissed the petition on two grounds i.e., (i) the petition has been filed belatedly and (ii) the admitted signature of the relevant party has not been submitted.

4. Heard the learned counsel for the petitioner as also perused the materials available on record.

5. The complaint has been filed in the year of 2016. The Chief examination was completed on 05.01.2017 itself and thereafter, though the matter was posted for cross-examination on several times, PW-1 has not been cross-examined. After that, the revision petitioner filed a petition in Cr.MP.No.3335 of 2018 on 30.10.2018 for recalling the witness and the said petition was allowed on 03.11.2018 and the same was posted for cross-examination on several hearings i.e., on 08.11.2018, 15.11.2018, 17.11.2018, 20.11.2018, 29.11.2018 and lastly he was cross-examined on 05.12.2018. When the complainant's evidence was closed, the matter was posted for respondent's evidence. After closing the defence side evidence, it was posted for argument on 07.01.2019, at the time, the petitioner has filed Cr.M.P.No.97 of 2019, without filing any documents containing the admitted signature. Though the matter was pending more than 3 years, he has not taken any steps to compare the disputed signature in the earlier occasions. Later point of time, he has filed the petition under Section 45 of Indian Evidence Act, without filing any document containing the admitted signature, to compare with the disputed signature. He has also received notice and summons in the year 2016 itself, he ought to have filed a Memo inspect the cheque and to find out whether the signature in the cheque is that of him or not. After completing trial, when the matter was posted for arguments, the petition has been filed by the petitioner only with the intention of protracting the case. Hence, this Court finds no reason to interfere with the order passed by the Court below.

6. This Criminal Revision Case shall stand dismissed at the admission stage itself. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

kmi

To

1.The Judicial Magistrate Court,
(Fast Track), Mayiladuthurai.

Cr1.R.C.No.297 of 2019

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CSL/03.05.2019



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