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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Cr1.OP No.7794 of 2017

L.Murugesan

.. Petitioner

.Vs.

Selvaraj

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 14.07.2014 passed in CMP No.7397 of 2013 in C.C.No.118 of 2011 by the Judicial Magistrate No.1, Namakkal.

For Petitioner : Mr.P.Rathanavel

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 91 of Cr.P.C.

2. The petitioner is the complainant, who has filed the complaint against the respondent for an offence under Section 138 of the Negotiable Instruments Act. The cheque in question was dishonored since the signature found in the cheque did not tally with the specimen signature of the respondent.

3. The complaint was taken cognizance on 04.11.2011, and the trial commenced and concluded in the year 2013. The respondent was also questioned under Section 313 of Cr.P.C. In the year 2013, the petitioner filed a petition under Section 91 of Cr.P.C., to compare the signature found in the cheque with the other school records wherein the signature of the respondent is found. This exercise was undertaken on the ground that the respondent has denied the signature found in the cheque.

4. The Court below has dismissed the petition mainly on the ground that there was an enormous delay in filing the present petition and that the Manager of Lakshmi Vilas Bank was already examined as PW-2 and the certified copy of the account



opening form and the specimen signature of the respondent were marked as Ex.D-1 and Ex.D-2. The Manager who was examined as PW-2 was also cross examined with respect to the reasons for the return of the cheque and the variations found in the signature. Therefore, the Court below held that no useful purpose will be served by sending the cheque for comparison since the specimen signature itself has been marked before the Court below.

5. Heard the learned for the petitioner.

6. This Court is not able to find any illegality or infirmity in the order passed by the Court below. It is an admitted case that the cheque was dishonored on the ground that the signature found in the cheque differs with the specimen signature maintained by the Bank. Therefore, sending the present cheque to compare the signature found in it with some other document, will not really serve the purpose since the specimen signature maintained in the Bank is completely different. In the considered view of this Court, the petitioner ought not to have undertaken this exercise more particularly due to the fact that the Bank Manager has already been examined as PW-2 and the specimen signature has already been marked as Ex.D-2.

In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in C.C.No.118 of 2011, within a period of three months from the date of receipt of copy of the order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KP
To

Judicial Magistrate No.1,
Magistrate Court.
Namakkal.

Cr1.OP No.7794 of 2017

ad[co]
srg 13/08/2019