

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.RC.No.882 of 2019
CrI.MP.No.12820 of 2019

T.Jebash

Petitioner /Accused

Vs

Baskaran

Respondent /Complainant

Prayer:- This Criminal Revision Petition is filed against the order dated, 5.8.2019, made in Cr.MP.No.1929 of 2019 in STC.No.499 of 2019, by the Judicial Magistrate, Gobichettipalayam.

For Petitioner : Mr.S.Parthasarathy

For Respondent : Mr.V.C.Ajeethkumar

ORDER

1.This Criminal Revision Petition has been filed, against the order dated, 5.8.2019, made in Cr.MP.No.1929 of 2019 in STC.No.499 of 2019, by the Judicial Magistrate, Gobichettipalayam, dismissed the said petition filed under Section 45 of the Indian Evidence Act, seeking to send Ex.P1, cheque and Ex.P2, bank challan, for Forensic Expert opinion, to ascertain as to whether the signatures found in Ex.P1 and Ex.P2 are signed by one and the same person or not.

2.This court heard the learned counsel on either side.

3.The learned counsel for the Petitioner/ accused would submit that the Petitioner/accused is facing trial for the offences under Section 138 and 142 of the Negotiable Instruments Act and that before the Trial Court, the cheque was marked as Ex.P1 and the bank challan was marked as Ex.P2. He had taken a specific plea that he has not filled the name of the Payee in the cheque and that the person, who has filled the name in the cheque and in the bank challan, is one and the same person and that in order to substantiate the same, he had filed the present petition, seeking to send Ex.P1 and Ex.P2 for expert opinion to find out as to whether the name, 'S.Baskaran', which

is written in Ex.P1 and Ex.P2, are written by one and the same person. He would further submit that the Trial Court had dismissed the said petition, by the impugned order, stating that the Petitioner having admitted his signature in the cheque, cannot raise a ground that he has not filled the name in the cheque and that the Respondent/ complainant had taken two different stands and at one point of time, he has stated that he has not filled the name in the cheque, whereas in the cross examination, he has stated that the cheque was filled up by the Petitioner and handed over to him.

- 4.The learned counsel for the Respondent/ complainant would submit that the only ground raised by the Petitioner/ accused is that he has not filled the name in the cheque and that the person who has written the name in the cheque is the same person who had written the name in the bank challan
- 5.I have gone through the copies of Ex.P1, cheque and Ex.P2 bank challan.
- 6.On a perusal of the xerox copies of Ex.P1 and Ex.P2, on the face of it, this Court is able to see that the name 'S.Baskaran' in the cheque, Ex.P1 and in the bank challan, Ex.P2 have been written by one and the same person. For comparing this, in the opinion of this Court, it need not be sent for expert opinion. The Trial Court had further held that the Petitioner having admitted the signature in the cheque cannot now dispute that the names have not been written by him, in view of Section 20 of the Negotiable Instruments Act. Further, the Trial Court has also found that nothing has been stated in the reply notice and during the questioning under Section 313 of Cr.PC, it was stated that the name of the payee was not filled up by him and that he had only stated that it was a false case.
- 7.Further, though several opportunities and particulars had been given to him, the Petitioner/ accused has not raised any objection and only at the stage of arguments, the present petition, seeking to send for documents for expert opinion, has been filed. The Trial Court, having found that the said petition had been filed only at the stage of arguments for defence, had held that it had been filed to delay the proceedings and had dismissed the petition. This Court finds no infirmity in the impugned order. However, this Court observes that the name, S.Baskaran in Ex.P1 and Ex.P2 have been written by one and the same person, other than such observation, this Court does not give any opinion with regard to the merits of the case, based on evidence let in on both sides.

8.With the above observations, this Criminal Revision Petition is dismissed. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Srcm

To:

1.The Judicial Magistrate,
Gobichettipalayam

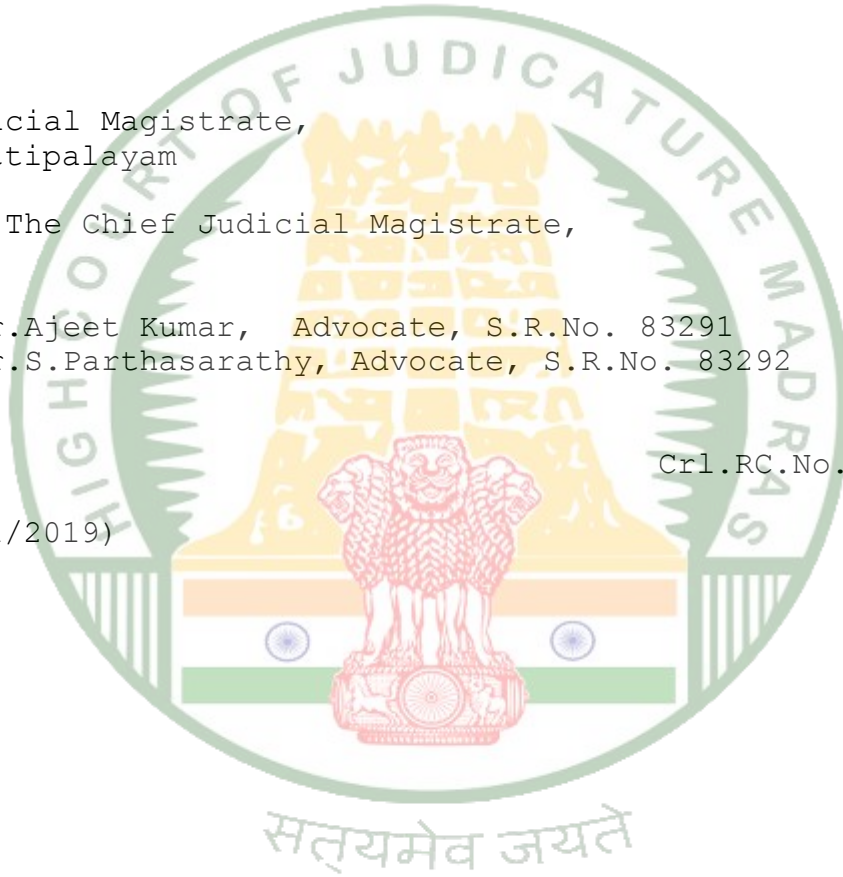
2.Do Thro The Chief Judicial Magistrate,
Erode.

+1cc to Mr.Ajeet Kumar, Advocate, S.R.No. 83291

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No. 83292

Cr1.RC.No.882 of 2019

MG(CO)
GN(06/11/2019)



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