



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
CORAM

DATED:17.07.2019

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.RC(MD)No.186 of 2019

and

Crl.MP(MD)No.2897 of 2019

WEB COPY

A.Janagaimari : Petitioner/Petitioner/Accused

Vs.

Seenivasan : Respondent/Respondent/Complainant

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code against the order, dated 06.07.2018 in Cr.M.P.No.3363 of 2018 in C.C.No.651 of 2017 on the file of the Judicial Magistrate No.II, Sivakasi.

For Revision Petitioner : Mr.S.Selvakumar

For Respondent : Mr.R.Rajamohan

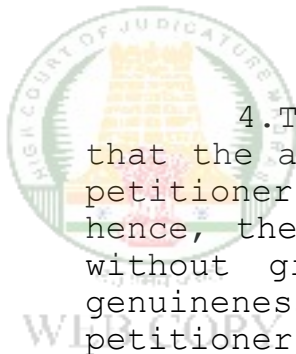
O R D E R

This Criminal Revision is filed against the order, dated 06.07.2018 passed in Cr.M.P.No.3363 of 2018 in C.C.No.651 of 2017 by the Judicial Magistrate No.II, Sivakasi.

2.The facts of the case is that on 07.03.2014, the petitioner borrowed a sum of Rs.2,00,000/- as hand loan from the respondent for purchasing a vehicle and agreed to pay the same within two months with interest at the rate of 1% per month and to discharge the said loan, on 08.05.2014, the petitioner issued a cheque bearing No.315386, dated 11.06.2016 for the said amount and when the same was presented for collection on 19.06.2014, it was returned as "Insufficient Funds". Thereafter, the respondent filed a complaint under Section 138 of Negotiable Instruments Act before the Judicial Magistrate No.II, Sivakasi, in C.C.No.651 of 2017. In the above circumstance, the petitioner filed a petition under section 45 of the Indian Evidence Act in Cr.MP No.3363 of 2018 in C.C.No.651 of 2017 to send the alleged cheque to an expert for verifying and comparison. The Judicial Magistrate No.II, Sivakasi, on 06.07.2018 dismissed the said petition. Aggrieved by the said order, the petitioner is before this court.

3.Heard both sides and perused the materials available on

record
<https://hcservices.courts.gov.in/hcservices/>



4.The main contention raised on the side of the petitioner is that the alleged cheque was issued only for security purpose by the petitioner's husband for his job purpose to the complainant and hence, the alleged cheque must be subjected to expert opinion, but without giving any opportunity to the petitioner to prove his genuineness, the trial court has dismissed the petition filed by the petitioner and hence, prays that the criminal revision has to be allowed.

5.It is seen from the records that the respondent/complainant filed a complaint under Section 138 of the Negotiable Instruments Act before the Judicial Magistrate Court No.II, Sivakasi, in C.C.No.651 of 2017 and the respondent was examined on 11.09.2017 and subsequently, the case is pending for one year for defence side evidence. The petitioner/accused filed a petition under Section 45 of the Evidence Act to send the alleged cheque to handwriting expert for comparing the writings in Ex.P1 and writing obtained in the open court from her to find out the difference of ink used for writing Ex.P1 and and signature of the accused in Ex.P1. The learned Judicial Magistrate dismissed the said petition on 14.06.2018 holding that the petitioner/accused had indulged in dilatory tactics to delay the proceedings and there is no need to send Ex.P1 for expert opinion. Further, the trial court had given a finding that the opinion of the hand writing expert does not play as vital part in this case. This court is of the considered view that the trial court has rightly dismissed the petition filed under section 45 of the Evidence Act.

6.In the result, this criminal revision is **dismissed**. Consequentially, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

er

To,
The Judicial Magistrate No.II, Sivakasi, Virudhunagar District.

+1 CC to M/s.R.RAJAMOHAN, Advocate (SR-76082[F] dated 18/07/2019)

Order made in
CrI.R.C (MD) No.186 of 2019
17.07.2019

JMN(17.12.2019) 2P : 3C