



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.07.2019

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.RC.(MD)No.339 of 2019

and

Crl.MP(MD)No.4978 of 2019

T.Dhanalakshmi : Revision Petitioner/
Petitioner/Accused
Vs.

N.Rajkannu : Respondent/Respondent/
Complainant

Prayer: Criminal Revision filed under Section 397 r/w 401 of the Code of Criminal Procedure against the order passed in Crl.M.P No.3642 of 2019 in C.C.No.85 of 2018, dated 13.05.2019 by the Judicial Magistrate Court, Aruppukkottai, Virudhunagar District.

For Revision Petitioner : Mr.R.Murugappan

For Respondent : Mr.P.Ganapathi Subramanian

O R D E R

This Criminal Revision has been filed against the order passed in Crl.MP No.3642 of 2019 in C.C.No.85 of 2018, dated 13.05.2019 by the Judicial Magistrate, Aruppukkottai, Virudhunagar District.

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, Aruppukkottai, in C.C.No.85 of 2018. After taking cognizance of the offence, the matter was posted for enquiry. In the meantime, the petitioner filed a petition under Section 45 of the Indian Evidence Act to permit her to examine the handwriting expert to give evidence in relation to the disputed signature of the petitioner, after referring the cheque bearing No.01116050 to a handwriting expert. The said petition was dismissed by the learned Judicial Magistrate, Aruppukkottai, on 13.05.2019. As against the said order, the present criminal revision has been preferred before this Court.



3.The learned counsel appearing for the petitioner submitted that the signature found in the cheque was forged and hence, it is necessary to send the disputed cheque for handwriting expert for prays for allowing the criminal revision.

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4.On the other hand, the learned counsel appearing for the respondent submitted that the petitioner/accused borrowed Rs.2 Lakhs from him and only for that purpose, the petitioner/accused gave the cheque and he sent notice to the accused calling upon her to repay the amount and the notice was recieved by the accused, but the accused has not chosen to send any reply to the respondent/complainant stating that her signature was forged and it is only an after-thought and the disputed cheque cannot be sent to handwriting expert and prays that the criminal petition has to be dismissed.

5.Heard both sides and perused the materials available on record.

6.In this case, the petitioner put her signature in the disputed cheque. It is seel that already the respondent/complainant sent a notice calling upon the petitioner to repay the amount. The said notice was received by the petitioner/accused, but the accused has not chosen to send any reply. It is pertinent to note here that when the notice sent was received by any person and the person, who received the notice, had failed to send any reply, it is presumed that he/she admitted the allegations found in the notice.

7.It is seen that no reason was stated by the petitioner for non-sending of reply to the notice sent by the complainant. If really, she has not borrowed any amount, she immediately taken steps to send a reply. But the accused has not taken any steps to send any reply. Further, she has not submitted the document showing the admitted signature of the accused during the year of 2018. Further, in this case, the petitioner has not submitted any document for comparision.

8.Further perusal of the records would show that the accused has not given any police complaint stating that the complainant has stolen the cheque and forged her signature in the cheque. No civil or criminal proceedings were taken by the accused as against the complainant. Under these circumstances, it is not necessary to send the disputed cheque for handwriting expert.

9.Considering all these aspects, the learned Magistrate has passed an order dismissing the petition seeking permission to examine handwriting expert, which does not call for any interference by this court.



10. In the result, the criminal revision fails and the same is dismissed. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To,

The Judicial Magistrate,
Aruppukottai,
Virudhunagar District.

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-77995[F] dated 26/07/2019)

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-78314[F] dated 29/07/2019)

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JMN(30.09.2019) 3P : 4C