



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 19.11.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO. 366 OF 2019

AND

CRL. M.P. (MD) 5411 OF 2019

Veni

.. Petitioner/Accused

- Vs -

V.Kuppusamy

.. Respondent/Petitioner

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, against the order dated 26.04.2019, passed by the Judicial Magistrate, Fast Track Court, Uthamapalayam, in Cr. M.P. No.328 of 2018.

For Petitioner : Mr. S.Anandha Rajagopal

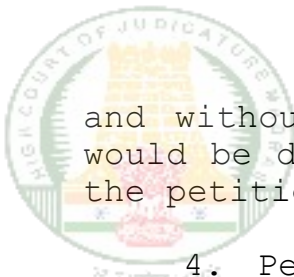
For Respondents : Mr. R.Shankar Ganesh

ORDER

The present revision has been filed against the dismissal of the petition filed by the petitioner to send Exs.P-1 and P-2, the signature of the accused, for expert opinion.

2. It is the case of the petitioner that the alleged signature in the cheque is not that of the petitioner and to prove the same, the petition was filed before the court below for sending the same for expert opinion. However, the same was dismissed on the ground of delay, more especially that it has been filed at the fag end of the trial. Dismissal of the said petition would seriously prejudice the petitioner and, therefore, the present revision petition has been filed challenging the order passed by the court below.

3. It is the submission of the learned counsel for the petitioner that the court below, without appreciating the stand of the petitioner, has misconstrued the fact that the signature of the petitioner in the cheque is not a forged one. It is further submitted by the learned counsel for the petitioner that it is open to the petitioner to prove his innocence at any stage of the trial and, therefore, the filing of the petition to send the exhibits for expert opinion even at a belated point of time cannot be a ground to shut the doors on the face of the petitioner to get justice. It is further contended by the petitioner that the signature is a forgery



and without an expert opinion, proving the petitioner's innocence would be difficult and, therefore, dismissing the petition filed by the petitioner would seriously prejudice the case of the petitioner.

4. Per contra, learned counsel appearing for the respondent submitted that not only there is considerable delay in filing the petition to send the exhibits for expert opinion, but the fact remains that the petitioner has accepted issuing the cheque and the trial court has taken into consideration all the facts before it and has dismissed the petition filed by the petitioner and the same does not call for any interference.

5. Heard the learned counsel appearing for the parties and perused the materials available on record as also the impugned order passed by the court below.

6. A perusal of the impugned order reveals that the court below has not only given cogent and convincing reasons, but has given a detailed order while dismissing the petition filed by the petitioner. Not only on the ground of delay the petition has been dismissed, but also the court below has taken note of the fact that the petitioner herself has admitted issuing the cheque and has not raised any grievance about her not signing the cheque even in the reply to the notice sent by her. The court below has categorically found that only when the case was posted for recording the defendant's side evidence, the present petition has been filed to send the exhibits for expert opinion, which is nothing but an attempt to protract the proceedings and frustrate the defendant's cause. The court below has further noted that the petitioner having accepted issuing the cheques, which are marked as Exs.P-1 and P-2 in the reply notice, it is not open to the petitioner to contend that she has not signed the cheque. The act of the petitioner in issuing the cheque and at a belated point of time raising the issue of forgery and seeking to send the exhibits for expert opinion is nothing but a tool ingeniously developed by the petitioner to protract the proceedings. The court below has applied its mind to the facts in issue and has, by a detailed and well considered order, dismissed the petition filed by the petitioner, which, in the considered opinion of this Court, does not warrant any interference.

7. For the reasons aforesaid, this revision petition, being devoid of merits, is accordingly, dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS II)

// True Copy //



To
The Judicial Magistrate
Fast Track Court
Uthamapalayam.

+1 CC to M/s.R.SHANKAR GANESH, Advocate (SR-99361[F] dated
19/11/2019)

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19.11.2019

KK/SAR/03.12.2019/3P-3C/