



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 13.09.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO. 476 OF 2019

AND

CRL. M.P. (MD) NO. 6508 OF 2019

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M.S.Anbalagan

.. Appellant/Petitioner/Accused

- Vs -

K.Palanisamy

.. Respondent/Respondent/Complainant

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure call for the records relating to the impugned order dated 23.1.19 made in Crl. M.P. No.6530 of 2018 in C.C. No.811 of 2017 on the file of the Judicial Magistrate, Fast Track Court, Karur and set aside the same and allow this Criminal Revision Case.

For Petitioner : Mr. V.M.Jegadeeshapandian

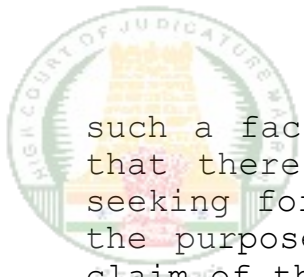
For Respondents : Mr. P.Athimoolapandian

ORDER

The present revision petition is directed against the order passed by the Judicial Magistrate, Fast Track Court, Karur, in Crl. M.P. No.6530 of 2018 in C.C. No.811 of 2017 dismissing the said petition filed by the petitioner/accused u/s 45 of the Evidence Act.

2. It is the case of the petitioner that the petition u/s 45 of the Evidence Act was necessitated in order to find out the age of the ink pertaining to the signature of the accused on the alleged cheques said to have been signed by the accused, which is the subject matter of dispute u/s 138 of the Negotiable Instruments Act. Therefore, the miscellaneous petition was filed to obtain expert opinion as to the ink and the writing style used in the four cheques, which are under dispute.

3. However, the learned Judicial Magistrate dismissed the application on the ground that the petitioner has not filed any application for obtaining any expert opinion on the genuineness of the signature affixed by him on the cheques and in the absence of the same, the trial court held that the application for ascertaining the age of the ink with which his signature is alleged to have been signed has not been made out. In fact, the trial court has held that in several cases, such applications have come to be dismissed on the ground that it is not possible to ascertain the age of the ink with which the signature is alleged to have been made and that



such a facility is not available. Therefore, the trial court held that there was no material alteration and, the application filed, seeking forensic opinion lacks bona fide, as the same was only for the purpose of dragging the proceedings in order to frustrate the claim of the complainant.

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4. Learned counsel appearing for the petitioner submitted that the entire case is based on the signature on the cheques and when the petitioner disputes the signatures and wants expert opinion as to the age of the ink and the writing style to prove his innocence, an opportunity ought to have been granted to him and, therefore, the present order of the court below deserves to be set aside.

5. Per contra, learned counsel appearing for the respondent submitted that the trial court, after taking into consideration all the materials available on record has given cogent and convincing reason for dismissing the petition and, therefore, no interference is warranted with the order passed by the Court below.

6. This Court gave its anxious considerations to the submissions advanced by the learned counsel on either side and also perused the materials available on record.

7. From a perusal of the order passed by the learned Magistrate, this Court finds no infirmity at all in the said order and this Court is also in agreement with the conclusion reached by the Judicial Magistrate that the petition u/s 45 of the Evidence Act is intended for dragging on the case and not a bona fide attempt by the petitioner to get the forensic expert's opinion to absolve himself from the offence. Even in the present revision, the grounds urged by the petitioner does not inspire the Court to take a view from the one taken by the court below.

8. In the said circumstances, this Court finds that the present revision petition is devoid of merits and the same deserves to be dismissed. Accordingly, the revision petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

GLN

<https://hcservices.ecourts.gov.in/hcservices/>



To
The Judicial Magistrate
Fast Track Court, Karur.

+1 CC to M/s.V.M.JEGADEESHA PANDIAN, Advocate (SR-87169[F] dated
17/09/2019)

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KK/SAR/30.09.2019/3P-3C/