

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2020

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

CrI.RC.Nos.842 & 856 of 2020
and CrI.M.P.No.5937 of 2020

Mahendran.P ... Petitioner / Accused
(in both cases)

Vs.

Senthil Kumar G
S/o. Govindaraj
Door No.17-A, Vaithiyar Arumughaudayar Street
Telungu Palayam Village
Coimbatore. ... Respondent / Complainant
(in both cases)

Criminal Revision Petitions filed under Sections 397 & 401 Cr.P.C., praying to set aside the order dated 16.03.2020 in CrI.M.P.No.9480 of 2018 & CMP.No.9481 of 2018 in C.C.No.147 of 2016 on the file of the learned Fast Track Judicial Magistrate-I, Coimbatore.

For Petitioner : Ms.Y.Kavitha
for Mr.C.Ananda Ramani

COMMON ORDER

These cases are taken up through video conferencing. For the sake of convenience, parties will be referred to as complainant and the accused.

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2. The criminal revision petitions have been filed seeking to set aside the order dated 16.03.2020 passed in CrI.M.P.Nos.9480 & 9481 of 2016 in C.C.No.147 of 2016 on the file of Court of Judicial Magistrate Fast Track No.1 @ ML, Coimbatore.

3. It is the case of the complainant that the accused was due a sum of Rs.10 lakhs, for which, he gave a cheque on 02.06.2015, and the said cheque was dishonoured. The complainant issued a statutory demand notice dated 08.09.2015, for which, the accused sent a reply notice dated 29.09.2015, disputing the signature in the cheque. The complainant initiated a prosecution in C.C.No.147/2016 in the Court of the Judicial Magistrate, Fast Track Court No.1, ML @ Coimbatore under Section 138 of Negotiable Instruments Act. The complainant was cross-examined by the accused and it was suggested to him that the signature of the impugned cheque was forged. After the case was closed, the accused filed CMP.Nos.9480/2018 and CMP.No.9481/2018 in C.C.No.147 of 2016, for re-opening the case and for sending the impugned cheque to the handwriting expert for examination and report. The complainant contested the petitioner/accused strongly. The trial Court has dismissed the petitions vide order dated 16.03.2020, aggrieved by which, the accused has preferred the present revision petition.

4. Heard the learned counsel appearing for the petitioner/accused, who submitted that the accused has been consistently maintaining that the signature in the cheque was not put by him and even in the petition filed by the accused, he was ready and willing to submit his admitted signatures relating to the cheque period, despite which, the trial Court has dismissed the petition. That apart, the learned counsel submitted that even if the trial Court compares the signature in the cheque with the signature of the accused available in the case bundles under Section 73 of the Evidence Act, it will be evident to the naked eye that the signature in the cheque is different.

5. This Court gave its anxious consideration to the aforesaid submissions. If notice is ordered to the complainant/respondent, the matter will be delayed further and it will create prejudice to both the parties. In such view of the matter, this Court is of the opinion that interests of justice will be served if the trial Court is directed to resort to Section 73 of the Evidence Act, which is acceptable to the accused, and take a decision in this regard. If thereafter, the trial Court is of the opinion that an expert opinion is required, it may send the cheque along with the admitted signatures of the accused relating to the cheque period to the handwriting expert for opinion. If the trial Court does not find any significant variation between the admitted and disputed signatures, it may refuse to send the cheque to the handwriting expert.

6. With the above directions, these criminal revision petitions are allowed and the order dated 16.03.2020 in CrI.M.P.No.9480 of 2018 & CMP.No.9481 of 2018 in C.C.No.147 of 2016, on the file of the learned Fast Track Judicial Magistrate-I, Coimbatore, are set aside for fresh consideration. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To:

1. The Judicial Magistrate,
Fast Track Court No.I,
Coimbatore.
- 2.The Public Prosecutor,
High Court of Madras,
Chennai - 600 104.

CrI.RC.Nos.842 & 856 of 2020

sj[col]
srg 05/11/2020

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