



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
CORAM
DATED:06.02.2020

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.RC(MD)No.88 of 2020
and
Cr1.MP(MD)No.766 of 2020

Tmt.Amutha,
Proprietor,
M/s.Divya Enterprises,
6/39, Saravana Street,
T.Nagar, Chennai-17. : Revision Petitioner/2nd Accused

Vs.

1.Thiru.O.Raja : 1st Respondent/Complainant

2.M/s.Divya Enterprises,
Through its Proprietor Smt.Amutha
W/o.Ramu,
6/39, Saravana Street,
T.Nagar, Chennai-17. : 2nd Respondent/Accused No.1

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code against the order of the Judicial Magistrate, Periyakulam, Theni District, in Cr1.MP No.7051 of 2019, dated 23.01.2020.

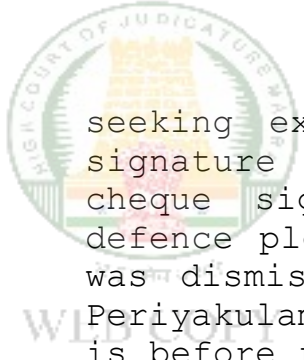
For Revision Petitioner : Mrs.M.Anbarasi

For 1st Respondent : Mr.R.Gandhi

O R D E R

This Criminal Revision is filed against the order of the Judicial Magistrate, Periyakulam, Theni District, in Cr1.MP No.7051 of 2019, dated 23.01.2020.

2.The petitioner has been arrayed as A2 in STC No.138 of 2014 pending on the file of the Judicial Magistrate, Periyakulam, on the complaint filed by the 1st respondent against her and the proprietorship of M/s.Divya Enterprises Company under section 138 of the Negotiable Instruments Act, 1881 for the cheque bounce case, dated 07.05.2013 for a sum of Rs.40,00,000/-. During the pendency of the case, the petitioner filed petition in Cr.M.P No.7051 of 2019 under section 45 of the Indian Evidence Act



seeking expert opinion in respect of the charge framing stage signature put up the complainant to be compared with the alleged cheque signature sent to the scientific laboratory approving defence plea disputed signature of the cheque. The said petition was dismissed on 23.01.2019 by the learned Judicial Magistrate, Periyakulam, Theni. Aggrieved by the said order, the petitioner is before this court.

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

4. The learned counsel appearing for the petitioner/accused argued that the Hon'ble Apex Court and this court in several cases held that opportunity of defence of the accused adducing evidence reputed the changes his available right, court cannot be denied to ensure justice to her and if the Magistrate allowed the petitioner for expert opinion, there is no prejudice would be caused to the aggrieved person and prays for allowing the revision.

5. On the other hand, the learned counsel appearing for the 1st respondent argued that the petitioner/accused has not sent any reply to the notice sent by the complainant denying the signature found in the cheque is not her signature and the petition filed by the petitioner only to drag on the proceedings and the conduct of the accused would go to show that she never cooperated for trial and prays that the criminal revision has to be dismissed.

6. The 1st respondent/complainant stated that the accused has not sent any reply for the notice sent by the complainant. It is not denied on the side of the accused, when a person sent a notice to other person and after receipt of the notice, when no reply was sent, it amounts that the person who received the notice admitted all the allegations found in the notice. In this case also, the accused has not sent any reply to the notice sent by the complainant. Hence, it reveals that she admitted the allegations found in the notice.

7. On perusal of the case records, it reveals that already sufficient time was given for the accused to defend his case. But at that time, she has not taken the defence that she denied her signature in the disputed cheque. Now the case stands posted for arguments on the side of the accused. Already this court, directed the trial court to dispose of the case within a period three months as per the order passed in CrI.O.P(MD)No.5481 of 2017. Hence, it reveals that only to drag on the proceedings, the accused filed this petition. The reasons stated in the petition are not acceptable. Hence, in the interest of justice, the criminal revision has no merit and it is liable to be dismissed.



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

9. It is represented by the learned counsel appearing for the petitioner/accused that without hearing argument on the side of the accused, the trial court has posted the case tomorrow (07.02.2020) for judgment and hence, the trial court may be directed to hear the arguments and then pass any orders. Hence, the Judicial Magistrate, Periyakulam is directed to pass orders in the main case, after hearing the arguments on the side of the accused.

Sd/-

Assistant Registrar(CS)

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Sub Assistant Registrar(CS)

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To,

The Judicial Magistrate,
Periyakulam, Theni District.

+1 CC to M/s.R.GANDHI, Advocate (SR-4935[F] dated 06/02/2020)

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-5056[F] dated 06/02/2020)

Order made in
Crl.R.C(MD)No.88 of 2020
06.02.2020

ss (CO)

TR(06.02.2020) 3P 4C