



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.09.2020

Delivered on : 23.09.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.134 of 2020

and

Crl.M.P.(MD)No.1180 of 2020

M.Dharmaraj

.. Petitioner

Vs.

Dr.Swetha Ramamurthi

.. Respondent

Prayer : This Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C., to call for the records relating to the order, dated 31.01.2020 in Crl.M.P.No.322 of 2020 in S.T.C.No.863 of 2012 on the file of the learned Judicial Magistrate No.5, Tiruchirappalli and to set aside the same.

For Petitioner

: Mr.VR.Shanmuganathan

For Respondent

: Mr.B.Jameel Arasu

ORDER

This revision has been filed to set aside the order, dated 31.01.2020 in Crl.M.P.No.322 of 2020 in S.T.C.No.863 of 2012 on the file of the learned Judicial Magistrate No.5, Tiruchirappalli.

2. The petitioner is the complainant in S.T.C.No.863 of 2012, pending on the file of the learned Judicial Magistrate No.5, Tiruchirappalli. The petitioner filed a petition in Crl.M.P.No.322 of 2020 for comparing the disputed signature of the accused with his admitted signatures in Ex.C1 to C4. That petition was dismissed by the learned Judicial Magistrate No.5, Tiruchirappalli. Against the same, the petitioner preferred this Criminal Revision.

3. On the side of the petitioner, it is stated that Ex.C1 to C4 are documents regarding a loan transaction between the respondent and the Bank. Those documents are not denied by the respondent. The trial Court dismissed the petition on the ground that the documents Ex.C1 to C4 are not related to the case. It is stated that the photograph of the respondent was affixed in the loan application. The respondent obtained loan from the State Bank of India and hence, the signatures in documents (Ex.C1 to C4) are to be compared with the disputed signature. An opportunity for the petitioner to prove the signature of the respondent is to be given. The rights of the petitioner cannot be shut down at the threshold.



4. On the side of the respondent, it is stated that the respondent never borrow any amount from the petitioner and never execute any cheque. P.W.2 has deposed that there is no account mentioning the name of the respondent in the Bank. The petitioner sought for a stay of his own case which is not maintainable. The question of admissibility of the documents in Ex.C1 to C4 is not proved. Only with an intention to prolong the case, the petitioner has filed the petition. The respondent filed a petition in Crl.O.P.(MD)No. 17827 of 2019 before this Court to quash the proceedings in S.T.C.No.863 of 2012 on the file of the learned Judicial Magistrate No.5, Tiruchirappalli and a direction was issued to the trial Court to dispose of the case within a period of eight weeks. Under Section 143(3) NI Act, the trial Court has to dispose of the case within a period of six months from the date of filing of the complaint. Only after 8 years, the petitioner filed this petition to drag on the case, and if the petition is allowed, it will take another one year to obtain an expert opinion and prayed the petition to be dismissed.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

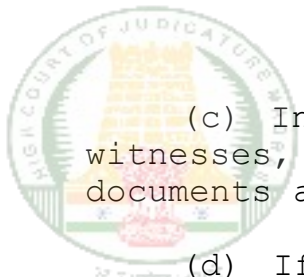
6. A perusal of the documents reveals that Four documents, viz., Ex.C1 to C4, were marked through the Court witness, by name, Nandhini, Manager, S.B.I., Trichy Cantonment Branch. A revival letter was marked as Ex.C1. Loan Applications in the name of the respondent was marked as Ex.C2 and C4. Loan Application in the name Ramamoorthy was marked as Ex.C3. The Court witness was not cross examined by the respondent. In the counter filed by the respondent, the respondent did not clearly state whether he is denying the signature in Ex.C1, C2 and C4. When the counter is not clear whether the respondent is admitting or denying the signature in Ex.C1 to C4 and when the Court witness was not cross examined by the respondent, the trial Court deciding this documents as not admitted documents is not correct.

7. It is the duty of the petitioner to prove the disputed signature of the respondent. The right of the petitioner cannot be denied.

8. In the above circumstances, this Court is inclined to pass the following directions:-

(a) the trial Court is directed to order the respondent to cross examine the Court witness and to find out whether the signatures in the documents Ex.C1, C2 and C4 were admitted by the respondent or denied by the respondent within a period of one month from the date of receipt of the copy of this order.

(b) If the signatures in the documents are admitted by the respondent, the Court can send those document for comparison with the respondent's signature.



(c) In case the respondent failed to cross examine the Court witnesses, the trial Court can presume that the signatures in the documents are admitted by the respondent.

(d) If the respondent is not admitting the signature in the Court documents i.e. Ex.C1, C2 and C4, the trial Court can get specimen signatures of the respondent in the open Court and can send them for comparison with the disputed signature.

9. With the above directions, this Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate No.5,
Tiruchirappalli.
2. The Chief Judicial Magistrate,
Trichirapalli.

Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2)

Order made in
Crl. R.C.(MD)No.134 of 2020
23.09.2020

PM(CO)
CS(05.10.2020) 3P 5C