



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07.01.2020

CORAM

**THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI**

Crl.RC(MD)No.825 of 2019

and

Crl.MP(MD)No.9548 of 2019

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Mrs.Selvarani : Petitioner/Petitioner/Accused  
Vs.  
Mrs.Arputhamary : Respondent/Respondent/Complainant

**Prayer:** Criminal Revision filed under section 397 and 401 of the Criminal Procedure Code against the order passed by the Judicial Magistrate No.1, Dindigul, in Crl.MP No.2919 of 2019 in C.C.No.154 of 2017, dated 30.08.2019.

For Petitioner : Mr.M.Jothi Basu  
For Respondent : Mr.AN.Ramanathan

**O R D E R**

This criminal revision is directed against the order passed by the Judicial Magistrate No.1, Dindigul, in Crl.MP No.2919 of 2019 in C.C.No.154 of 2017, dated 30.08.2019.

2.The respondent/de-facto complainant has filed a private complaint under section 200 Cr.P.C on 06.12.2017 before the Judicial Magistrate No.1, Dindigul, to punish the accused under section 138 of the Negotiable Instruments Act contending that on 02.09.2017, the accused demanded a sum of Rs.5,00,000/- as a hand loan and for that, on 20.09.2017 he issued a cheque bearing No.625416 of the Corporation Bank, Dindigul, for a sum of Rs.5,00,000/- and on 24.10.2017, when the complainant presented the cheque for collection through Indian Bank, Dindigul Branch, it was dishonoured stating "Funds Insufficient". On 10.11.2017, the complainant sent a legal notice to the accused, but it was returned. During trial, the complainant examined herself as PW1 and marked 6 documents. In the cross examination, PW1 admitted that she is ready to prove the transaction by sending the cheque for expert opinion. After complainant side evidence was over, the accused filed a petition in Crl.MP No.2919 of 2019 under section 45 of the Indian Evidence Act, 1872 to send the disputed cheque (Ex.P2) and counterfoil (Ex.P3) for expert opinion to ascertain the age of the ink. The said petition was dismissed on 30.08.2019. Aggrieved over the same, the petitioner/accused is before this court.

3.Heard both sides and perused the materials available on



4.The main contention raised on the side of the petitioner/accused is that the disputed cheque was issued as a security for the electrical work done by the husband of the respondent/complainant and the respondent/complainant has not produced any document except the alleged cheque to prove the transaction and PW1 admitted during her cross examination that she is ready to send the cheque for expert opinion and when the disputed cheque and its counter foils are sent to forensic lab to ascertain the age of the ink, it will help to the court to ascertain the facts of the case properly and there are facilities available in India to ascertain the age of the ink and prays that the criminal revision has to be allowed.

5.On the other hand, the learned counsel appearing for the respondent/complainant argued that no sufficient reason was stated in the petition for sending the cheque for expert opinion and the respondent/complainant specifically stated in her petition the reason for obtaining money from the complainant by the accused and the place in which the accused gave the disputed cheque to the respondent/complainant and there are no facilities available in India to ascertain the age of the ink in a cheque and only to drag on the proceedings, the petitioner/accused filed the petition and prays that the criminal revision has to be dismissed.

6.The petitioner/accused filed the petition to send Ex.P2 cheque and Ex.P3 counterfoil of Ex.P2 to Forensic Lab to ascertain the age. The petitioner states that there are facilities available in India to ascertain the age of the ink. For that, the learned counsel appearing for the petitioner/accused submitted the ruling reported in **(2011)3 MLJ (Cr1) 440 (A.Devaraj Vs Rajammal)** and **(2010)2 MLJ (Cr1) 659 (R.Jagadeean Vs. N.Ayyasamy and another)**.

7.But on the other hand, the learned counsel appearing for the respondent/complainant submitted that there is no facility available in India to ascertain the age of the ink in the disputed documents. For that, the learned counsel appearing for the respondent submitted the ruling reported in **(2015)1 MLJ (Cr1) 531 (A.Inayathullah Vs. A.Ramesh)**, **(2015)2 MLJ (Cr1) 23 (A.V.Ravichandran Vs. Sri Gokulam Chit and Finance Company Pvt. Ltd., Authorised rep. V.Karnan, Chennai-600 024)**, **2015(3) MWN (Cr.) DCC 145 (Mad.) (Jai Aanuman Jewellery Vs. P.Murugan)**, **2018 (3)MWN (Cr.) DCC 40 (Mad.) (C.Kannan Vs. V.Murugan)** and **(2019)2 MLJ (Cr1) 327 (SC) (Basalingappa Vs. Mudibasappa)**.

8.In the judgment reported in **2015(3) MWN (Cr.) (DCC) 145 (Mad.)**, **Jai Aanuman Jewellery Vs. P.Murugan)**, it has been held at

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para 6 as follows:-

"..(i) In the decision of this Court reported in **R. Jagadeesan V. Ayyasamy and another, 2010(1) CTC 424**, this Court had held that there is no such facility available in India, especially in Tamil Nadu to compare the age of the ink. In Para Nos.7, 8 & 9, it was held as follows:-

"7. In order to ascertain the correctness of the said statement, this Court had requested the learned Additional Public Prosecutor Mr.N.R.Elango to request either the Director or the Assistant Director, Document Division, Forensic Science Department, Chennai, to be present before this Court to explain the position. Accordingly, today, Mr.A.R.Mohan, Assistant Director, Document Division, Forensic Science Department, Government of Tamil Nadu, Chennai is kind enough to be present before this Court. According to him, he is the Head of the Document Division of the Department. On a query made by this Court regarding the above position, he would explain to this Court that there is no Scientific method available anywhere in this State, more particularly, in the Forensic Science Department, to scientifically assess the age of any writing and to offer opinion. However, he would submit that there is one Institution known as Neutron Activation Analysis, BABC, Mumbai where there is facility to find out the approximate range of the time, during which the writings would have been made. It is a Central Government Organisation. According to him, even such opinion cannot be exact. He would further submit that since it is a Central Government Organisation and confined only to atomic research, the documents relating to prosecutions and other litigations cannot be sent to that Institution also for the purpose of opinion. He would further submit that if a document is sent for comparison, with the available scientific knowledge, opinion to the extent as to whether the same could have been made an individual, by comparing his admitted handwritings or signatures, alone could be made. He would further submit that if there are writings with two different inks, in the same document, that can alone be found out. But he would be sure enough to say that the age of the writings cannot be found out at all to offer any opinion.

8. In view of the above clear and unambiguous statement made by no less a person than the Head of the Department of Forensic Science, I am of the view



that the whole exercise adopted in various Courts in this State to send the disputed documents for opinion to the Forensic Department in respect of the age of the writings and the document is only futile. If any document is so sent, certainly the department will say that no opinion could be offered. As a matter of fact, the Assistant Director would inform the Court that already many such documents, which were sent to them by various Courts in the State for such opinion, have been returned by them with the report that no such opinion could be offered.

9. In view of all the above, in my considered opinion, sending the document for opinion in respect of the age of the writing on documents should not be resorted to hereafter by the Courts unless, in future, due to scientific advancements, new methods are invented to find out the age of the writings."

9. In the above ruling, the judgment passed in **2012 (4) MLJ (Crl) 586 (Babu Vs. Vinayagam)** was referred, which would run thus:-

"11. As far as comparison of age of the ink sought for by the Petitioner/Accused by the Forensic Experts, such a prayer cannot be countenanced in view of the decision rendered by this Court in **(R. Jagadeesan V. N. Ayyasamy and another), 2010 (1) CTC 424**, which was also followed by this Court in various other decisions including an unreported decision of this Court in Crl.RC(MD)No.265 of 2012, dated 18.07.2012 wherein it was held that the facility to ascertain the age of the ink of the signatures found in the Cheques, is not available in Tamil Nadu and that earlier, the matters have been referred to Andhra Pradesh, in fact, now a Report has been sent by the Assistant Director, Central Forensic Laboratory, Andhra Pradesh to the effect that as of now, such facility is not available in India, therefore, there is no possibility to ascertain the age of the ink of the signature found in the Cheques.

12. The Court below pointed out that when the Petitioner admitted his signature in the Cheques as well as the Promissory Note, there is no necessity to send the Cheques in question to forensic experts for comparison. Even in the reply given by the Petitioner to the Statutory Notice sent by the Respondent or during the course of trial, the Petitioner/Accused never disputed the execution or



notes in favour of the Respondent/Complainant and therefore, the Court below is right in dismissing the Petition filed by the Petitioner under Section 45 of the Indian Evidence Act. I am fully in agreement with the conclusion arrived at by the Court below and I do not find any reason to interfere with the same."

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10. In this case also, the signature found in the cheque was not denied by the petitioner/accused. As per the preposition laid down in **2015(3) MWN (Cr.) DCC 145 (Mad.) ( Jai Aanuman Jewellery Vs. P.Murugan)**, it is held that question of ascertaining the age of the ink by expert does not arise since the petitioner/accused admitted her signature in the disputed cheque.

11. On perusal of the judgment reported in **(2011)3 MLJ (Cr1) 440 (A.Devaraj Vs. Rajammal)**, it is seen that the issuance of cheque was disputed by the accused. But in this case, the accused admitted her signature found in the cheque. When the accused admitted her signature in the disputed cheque, the question of ascertaining the age of the ink does not arise. Hence, the above ruling submitted the learned counsel appearing for the petitioner/accused is not applicable to the case on hand.

12. The trial court on proper appreciation of the entire materials available on record, had correctly passed the impugned order, which do not require any interference by this court.

13. In the result, this criminal revision is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Record)

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Sub Assistant Registrar(CS)

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To

The Judicial Magistrate No.I, Dindigul.

+1 CC to M/s.G.M.LAW ASSOCIATES, Advocate ( SR-775[F] dated 08/01/2020 )

Order made in  
Crl.RC(MD)No.825 of 2019  
07.01.2020

SM/(08.05.2020) 5P 3C

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