

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.Nos.859 & 860 of 2015
and Crl.M.P.Nos.1 & 1 of 2015

K.Shanthi ... Revision Petitioner
in both petitions

Vs.

1.M/s.SRY EMU FARMS,
742-C, Ponmani Complex,
Salem Road,
Namakkal - 637001.

2.N.Jambukumar
Managing Director,
M/s.SRY EMU FARMS,
742-C, Ponmani Complex,
Salem Road,
Namakkal - 637001.

... Respondents
in both petitions

COMMON PRAYER: These Criminal Revision Petitions have been filed under Section 397 read with Section 401 of Cr.P.C, to call for the records and set-aside the order passed in CMP.No.2217 & 2218 of 2015 on the file of the Judicial Magistrate-Fast Track Court at Thiruchengode on 09.07.2015.

For Appellant
in both petitions : Mr.V.Vargees Amal Raja
For R1
in both petitions : No appearance
For R2
in both petitions : Mr.N.Ponraj

COMMON ORDER

The private complainant is the revision petitioner in both the petitions.

2(a).The revision petitioner has instituted a case in STC.Nos.215 & 2016 of 2013 under Section 200 of Cr.P.C read with Sections 138 & 142 of Negotiable Instrument Act - 1881, for the dishonour of the Cheque Nos.304896 & 304895, dated 17.12.2012, said to have been issued by the second respondent herein on behalf of the first respondent herein/Company.

2(b).During the cross examination of PW1, the signature found in the impugned cheques was challenged and hence, the private complainant has filed the petitions in CMP.Nos.2217 & 2218 of 2015, before the Judicial Magistrate - Fast Track Court, Tiruchengode, under Section 45 of the Indian Evidence Act to refer the disputed signature found in the impugned cheques to the hand writing expert attached to the Tamilnadu Forensic Department of Madras to compare the disputed signature found in the cheques along with the admitted signature of the second respondent/ Managing Director of the first respondent herein/Company, in order to get the expert opinion and the learned Judge has dismissed the same. Hence, the present Criminal Revision Case.

3.Heard the learned counsel for the revision petitioner and the learned counsel appearing for the second respondent.

4.The learned counsel for the respondent would contend that a new plea has been raised by the revision petitioner only at the belated stage and furthermore, the cheque was issued by M/s.SRY EMU FARMS INDIA PRIVATE LIMITED, whereas, the first respondent name is different.

5.According to the learned counsel for the respondent the answers have been elicited in the cross examination of PW1. After perusing the order passed by the learned Judicial Magistrate - Fast Track Court, Tiruchengode, in CMP.Nos.2217 & 2218 of 2015, it appears that the learned Magistrate has passed the orders without reference to the subject matter of the petitions and the prayer mentioned in the petitions now that the first respondent has taken a plea that the signature found in the cheque is not the same and signature being disputed, it is necessary to have comparison of signatures by an expert opinion from the Government Forensic Department as to the plea that M/s.SRY EMU FARMS and SRY EMU FARMS INDIA PRIVATE LIMITED, it is for the Trial Judge to decide the matter.

6.In view of the specific stand taken by the first respondent viz., to get expert opinion from the Government Forensic Department with regard the signatures found in the disputed cheques, this Court finds that these petitions are ought to have allowed.

7.Accordingly, these Criminal Revision Cases are allowed and the orders dated 09.07.2015, passed in CMP.Nos.2217 & 2218 of 2015, by the learned Judicial Magistrate - Fast Track Court, Tiruchengode, are set aside. The learned Judicial Magistrate - Fast Track Court, Tiruchengode, is directed to send the cheques for comparison

to the Government Forensic Department, along with contemporary documents filed by the complainant within a period of six weeks with the earliest possible time from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

dua

To

The Judicial Magistrate-Fast Track Court,
Thiruchengode.

Copy To:

The Section Officer,
Criminal Section,
High Court, Madras

+2ccs to M/s.V.Vargees Amal Raja, Advocate SR.No. 25795, 25796
Crl.R.C.Nos.859 & 860 of 2015
and Crl.M.P.Nos.1 & 1 of 2015

PPA (CO)

A.SK(12.07.2021)



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