

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.169 of 2021
and
Crl.M.P.No.3748 of 2021

Raju

... Petitioner

...vs...

K.Kumar

.... Respondent

Criminal Revision Case filed under Section 397 Cr.P.C, to set aside the order passed in C.M.P.No.432 of 2020 in S.T.C.No.343 of 2018, dated 09.02.2021 passed by the learned Special Judicial Magistrate for Land Grabbing Cases, Salem and allow this Criminal Revision Case.

For Petitioner : Mr.G.Muthukumar

O R D E R

The Criminal Revision Case has been filed against the order dated 09.02.2021 passed in C.M.P.No.432 of 2020 in S.T.C.No.343 of 2018 by the learned Special Judicial Magistrate for Land Grabbing Cases, Salem.

2.The case of the petitioner/accused is that the respondent/complainant filed a complaint against him for the offence under Section 138 of Negotiable Instruments Act before the learned Special Judicial Magistrate for Land Grabbing Cases, Salem in S.T.C.No.343 of 2018. After examination of the witnesses, the case was posted for arguments, subsequently, the petitioner filed a petition under Section 45 of Indian Evidence Act, 1872 to send Ex.P1 (Cheque) to the hand writing experts for comparison. After hearing, the learned Magistrate dismissed the petition. Challenging the same, the petitioner is before this Court.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. On a careful perusal of the records, it reveals that the petitioner/accused admitted his signature found in the disputed cheques, but, he denied only the date and time. The defence raised by the petitioner is that he has given two cheques for a sum of Rs.33,820/- each, however, the

respondent/complainant has subsequently added the figure one before Rs.33,820/- and converted the cheques for a sum of Rs.1,33,820/-. In order to prove the same, the petitioner filed the petition under Section 45 of Indian Evidence Act to send the cheques for expert opinion.

5. Since the petitioner/accused admitted the execution of the cheques and the signature found in the cheques is of the petitioner, it is for the petitioner to rebut the presumption under Section 139 of Negotiable Instruments Act. The opinion of the hand writing experts will not help to decide the matter. Further, the statutory notice itself mentions the value of the cheques executed by the petitioner. Even, otherwise the petitioner has not raised the same in the reply notice, non sending of the reply notice can not be affected the case of the accused. During the examination of the witnesses, the petitioner has not taken any steps to send the cheques for expert opinion, but, he has filed the petition only at the time of arguments.

6. In the light of the above facts, this Court does not find any perversity or illegality in the order dated 09.02.2021 passed by the learned Special Judicial Magistrate for Land Grabbing Cases, Salem. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

ms

To

The Special Judicial Magistrate
for Land Grabbing Cases,
Salem.

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Crl.R.C.No.169 of 2021
and
Crl.M.P.No.3748 of 2021

AD (CO)
GMY (23/06/2021)