



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.29734 of 2019

and

Crl.M.P.Nos.16031 & 16032 of 2019

K.Sureshkumar, M/A 33 years,
S/o.Kittusamy

...Petitioner/Accused

Vs.

Badhrudheen

...Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to set aside the order in C.M.P.No.4255 of 2019 in STC.No.175 of 2016 on the file of the Judicial Magistrate Court (Fast Track Court No.2), Erode dated 24.06.2019.

For Petitioner : Mr.S.Doraiswamy

For Respondent : Mr.A.Gokulakrishnan

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to set aside the order in [C.M.P.No.4255](#) of 2019 in [STC.No.175](#) of 2016 on the file of the Judicial Magistrate Court (Fast Track Court No.2), Erode.

2. The fact reveals that the respondent filed a private complaint under Section 200 [Cr.P.C.](#), against the petitioner for the alleged offence under Section 138 of Negotiable Instruments Act, in [STC.No.175](#) of 2016 before the Judicial Magistrate (Fast Track Court No.2). Erode for dishonouring the cheque bearing in Cheque No.334436 for a sum of Rs.5,00,000/- issued by the petitioner and the same is pending trial.

3. The petitioner filed a petition under Section 45 of Indian Evidence Act in [CMP.No.7477](#) of 2016 to send the original cheque filed along with complaint in [STC.No.175](#) of 2016 to the Forensic Science Department for comparison of the hand writing



found in the above disputed cheque with the handwriting of the petitioner and the same was dismissed by the Court below. Against which, he preferred the revision petition before this Court in [Crl.R.C.No.166](#) of 2017. After hearing both sides, the said revision petition was allowed with the following conditions

'11. Accordingly, this Court inclined issues the following directions:

(i) The learned Judicial Magistrate (Fast Track) Court No.2). Erode is directed to send the instrument to the Deputy Director and Handwriting Expert, Forensic Science Laboratory, Kamarajar Road, Chennai, for Expert opinion, within a period of two weeks from the date of receipt of a copy of this order along with the un-disputed signature of the petitioner prior to the date of the instrument/

(ii) The Deputy Director and Handwriting Expert, Forensic Sciences Laboratory, Karmarajar Road, Chennai, is directed to forward his opinion to the learned Judicial Magistrate (Fast Track Court No.2), Erode, within a period of six weeks from the date of receipt of the instrument for comparison of signature.

(iii) The petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) as remuneration to the Deputy Director and Handwriting Expert, Forensic Sciences Laboratory, Kararajar Road, Chennai.

12. This Criminal revision is allowed with the above directions. Consequently, the miscellaneous petition is also closed''.

4. As per the order of this Court, the documents were sent to the Forensic Handwriting Department at Chennai and the same was returned to the Court below for want of 10 empty cheques along his own writing, and signature of the accused to be obtained in the open court similar to that of the disputed cheque and ten similar writings in white paper to that of the disputed cheque for the comparison of the disputed writings. Hence, the petitioner filed a petition under Section 311(A) [Cr.P.C.](#), in [C.M.P.No.4255](#) of 2019 to take 20 similar writings as mentioned above to that of the disputed writings found in the instrument excluding the signature in the open court and sent to the forensic hand writing department at chennai along with other available documents and the same was dismissed by the Court below. Challenging the same, the present petition is filed.



5. The learned counsel for the de-facto complainant/respondent submits that the petition has been filed with an intention to drag on the proceedings. Even after the direction of this Court in [Cr1.R.C.166](#) of 2017, he filed a petition to take steps to send the document for Expert opinion. Furthermore, in order to get away from the direction given by this Court in [Cr.R.C.No.166](#) of 2017, he filed another application before the trial Court and the Trial Judge has rightly dismissed the same. Hence, he prayed to dismissal of this petition.

6. A perusal of the records, it reveals that the petitioner took defence that the signature found in the alleged cheque is not that of himself and hence, he wants to send the documents for getting Expert opinion about the signature. Already this Court directed him to send disputed documents to the Depute Director, and Handwriting Expert, Forensic Science Laboratory, and he has also sent the same. Thereafter, by letter dated 18.12.2018, the Forensic Science Laboratory has returned the said documents with following directions which reads as hereunder:-

1. சர்ச்சைக்குரிய State bank of India வங்கியின் காசோலையில் குறியீடு செய்யப்பட்டுள்ள (D1-"A, BADHRUDHEEN", D2-"Five lakhs only", D3-" 09/11/2015 மற்றும் D4-"5,00,000" ஆகிய கையெழுத்துகள் (Questioned Writings) மற்றும் எண்களை (Numerals) ஒப்பாய்வு மேற்கொள்வதற்கு சர்ச்சைக்குரிய ஆவணத்தில் உள்ள வார்த்தைகள் இடம்பெறாத 15.09.2010 மற்றும் 05.10.2015 தேதியிட்ட இரண்டு Cash Vouchers (கையெழுத்துகள் மற்றும் எண்கள்) ஏற்றுக்கொள்ளப்பட்ட ஆவணமாக அனுப்பப்பட்டுள்ளது. ஆகவே, இவற்றை வைத்து ஆய்வு மேற்கொள்ள போதுமானதாக இல்லாத காரணத்தினால், மேற்கண்ட சர்ச்சைக்குரிய காசோலையில் உள்ள கையெழுத்துகள் மற்றும் எண்கள் கொண்ட 2014-2015 வருடங்களுக்கு உட்பட்ட வங்கி காசோலைகள் (Passed Cheques) 5 முதல் 10 எண்ணிக்கையில் பெற்று ஆய்வுக்கு அனுப்புமாறு கேட்டுக்கொள்ளப்படுகிறது.

2. அல்லது சர்ச்சைக்குரிய ஆவணத்தில் உள்ளவாறு (As like on Questioned Document), Written to Dictation - முறையில் 5 முதல் 10 எண்ணிக்கையில் தனித்தனி வெள்ளைத் தாள்களில் நீதித்துறை நடுவர் முன்னிலையில் மாதிரி எழுத்துகள் மற்றும் எண்களை சர்ச்சைக்குரிய நபரிடம் பெற்று காசோலைகளில் எழுதிப் பெற்று ஆய்வுக்கு அனுப்புமாறு கேட்டுக்கொள்ளப்படுகிறது.

3. மேலும், அரசு ஆவண எண்.1417 HOME (Police.XVIII) Dept. நாள்.05.09.2018-ன் படி ஆவண ஆய்வுக்காக Rs.4500/- (ரூபாய் நான்காயிரத்து ஐநூறு மட்டும்) பணமாகவே அல்லது "The Director, Forensic Sciences Department, Chennai - 00 004" என்ற பெயரில் வங்கி வரைவோலையாகவோ (Demand Draft) எடுத்து அனுப்பும் படி கேட்டுக்கொள்ளப்படுகிறது.



மேற்குறிப்பிட்ட காரணங்களால் அனைத்து ஆவணங்களும் மூடி முத்திரையிடப்பட்ட உறையில் திரு.T.R. மகேஷ், வழக்கறிஞர்/ஆணையர் மூலம் திருப்பி அனுப்பப்படுகிறது.”

7. Thereafter, the petitioner filed petition under Section 91 [Cr.P.C.](#), in [CMP.No.399](#) of 2019 directing the Canara Bank of Anthiyur branch to cause production of the original cheque pay slip of the said cheque drawn by the petitioner and the said petition was allowed by order dated 21.01.2019. In pursuance of the said order, the Bank Manager of Canara Bank produced eight cheques along with pay in slips and at this stage, the petitioner filed petition under Section 311 of [Cr.P.C.](#), sent the documents except getting signature at the open court and the same was dismissed by the trial court observing that the conduct of the petitioner is squarely acted against the directions given by this Court in earlier proceedings.

8. At that time of arguments, the learned counsel for the petitioner submits that the petitioner is ready to co-operate for early disposal of the proceedings and to send the documents for Expert opinion, as directions given by this Court in [Crl.R.C.No.166](#) of 2019. Furthermore, now, the bank also gave a eight cheques, which are relating to the disputed cheque. Now, those documents are sufficient for comparison of the hand writing found in the above disputed cheque with the handwriting of the petitioner.

9. Accordingly, the petitioner is also directed to give the documents to the trial Court as per the earlier order of this Court with Canara Bank Cheques along with pay in slip and the trial Court is directed to send those documents to the Deputy Director and Handwriting Expert, Forensic Science Laboratory, for getting Expert opinion. After receipt of the report, the trial Court is directed to dispose of the case within a period of three months from the date of receipt of a copy of this order and the petitioner shall co-operate in the proceedings.

10. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



To

1. The Judicial Magistrate Court,
Fast Track Court No.2, Erode.

+1 CC to Mr.S.Doraiswamy, Advocate sr 69888.

Crl.O.P.No.29734 of 2019
and
Crl.M.P.Nos.16031 & 16032 of 2019

MT (CO)
SP (07/04/2022)