



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.OP.NO.20086 OF 2021

AND

CRL.M.P.NO.10946 OF 2021

N.Muthu

...Petitioner

Versus

Selvam

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records in C.M.P.No.607 of 2020 in C.C.No.123 of 2019 on the file of learned Judicial Magistrate Fast Track Court, Kallakurichi dated 16.08.2021 and thereby set aside the same.

For Petitioner : Mr.N.Suresh

O R D E R

This Criminal Original Petition is filed to call for records in C.M.P.No.607 of 2020 in C.C.No.123 of 2019 on the file of learned Judicial Magistrate Fast Track Court, Kallakurichi dated 16.08.2021 and thereby set aside the same.

2.The petitioner is an accused in C.C.No.123 of 2019 facing trial for offence under Section 138 of Negotiable Instruments Act, on the private complaint filed by the respondent herein. The petitioner had filed a petition under Section 293 Cr.P.C. in C.M.P.No.607 of 2020 in C.C.No.123 of 2019 with the prayer to send the cheque in question to the expert opinion and to obtain an export report. The lower Court by order dated 16.08.2021, had dismissed the petition. Against which the present petition is filed.

3.The contention of the petitioner is that the signature and the handwriting found in the cheque in question are in variance. Further for the purpose of defence forensic examination of the documents is necessary. On perusal of the lower Court order, it is seen that the complaint in this case filed on 02.08.2019, the accused appeared on 16.09.2019, on the same day copies served to the accused, initial questioning was made on 25.09.2019, PW1 was



chief examined on 10.12.2019, the case was posted to 27.12.2019 for cross examination of PW1. Thereafter for the reason best known the petitioner/accused not cross examined the witness, and kept dragging the proceedings for one year. At this stage, the petitioner/accused now filed the petition in C.M.P.No.607 of 2020 in C.C.No.123 of 2019 to send the cheque in question for expert opinion.

4.The respondent/complainant had some time to file his counter. The admitted case of the petitioner is that the petitioner handed over blank cheque, which is filled up by the respondent. Further the petitioner failed to produce any contemporary document during the relevant point of time to show the variations in the signature and writings. This Court finds that the order of the lower Court is proper, no interference is required and this Criminal Original Petition is liable to be dismissed.

5.Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

drm/ah

To

1.The Judicial Magistrate,
Fast Track Court,
Kallakurichi.

2.The Public Prosecution,
High Court,
Madras.

+1cc to Mr.N.Suresh, Advocate SR.No.56985

Cr1.OP.No.20086 of 2021

SSD(CO)
RVM(25/11/2021)