

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1274 of 2020
and Crl.M.P.No.8950 of 2020

S.Shalini

... Petitioner

..vs..

G.Ganesh

... Respondent

Prayer:Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order passed by the learned Metropolitan Magistrate, Fast Track Court at Magistrate Level -IV, Chennai in Crl.M.P.No.6825 of 2019 in C.C.No.1342 of 2015 dated 18.03.2020 and consequently permit the petitioner for giving sample signature to the handwriting expert to compare the signature in question on the cheque.

For Petitioner : M/s.Karpagam M
for Mr.R.Prabhakaran

O R D E R

This Criminal Revision Case has been filed against the order dated 18.03.2020 passed in Crl.M.P.No.6825 of 2019 in C.C.No.1342 of 2015 on the file of the learned Metropolitan Magistrate, Fast Track Court at Magistrate Level -IV, Chennai.

2. The petitioner is the accused in C.C.No.1342 of 2015 before the learned Judicial Magistrate No.II, Chengalpattu. Further, the petitioner filed a petition in Crl.M.P.No.6825 of 2019 under Section 45 of Indian Evidence Act before the Metropolitan Magistrate, Fast Track Court at Magistrate Level -IV, Chennai seeking to get the opinion of the hand writing expert. After considering the materials, the learned Magistrate dismissed the said petition on ground that the petitioner herself admitted the fact that she has given a blank cheque as security for the debts. Therefore, once the petitioner has admitted the issuance of the cheque, the same need not be sent for expert opinion. Challenging the said order the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that the cheque was returned with an endorsement as 'drawers signature mismatch' and the petitioner has also not admitted her signature in the cheque. Hence, it is necessary to send the cheque in question for expert opinion to ascertain the correctness and genuineness of the signature appearing thereon. Hence, the petitioner filed a petition before the learned Magistrate under Section 45 of Indian Evidence Act. The learned Magistrate, however, failed to consider the object of Section 45 of Indian Evidence Act and dismissed the petition. If the expert opinion comes, it will be helpful to the case of the petitioner.

4. In support of her contention the learned counsel also relied upon the judgments of the Hon'ble Supreme Court in Kalyani Baskar (Mrs) vs M.S.Sampoornam (Mrs) reported in 2007 (2) SCC 258; P.R.Ramakrishnan Vs. P.Govindarajan reported in 2007 SCC online Mad 1018; and A.Sivagnana Pandian Vs. M.Ravichandran reported in 2011 (1) MWN (Cr.) DCC 173.

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

6. Admittedly, the petitioner has been shown as accused in C.C.No.1342 of 2015 before the learned Judicial Magistrate No.II, Chengalpattu and the same is pending for more than five years. The petitioner filed CrI.M.P.No.6825 of 2019 under Section 45 of Indian Evidence Act before the Metropolitan Magistrate, Fast Track Court at Magistrate Level -IV, Chennai. More over, the petitioner also stated in paragraph No.3 of the petition that the complainant got a blank cheque from the petitioner as security for the debt. Once, the petitioner admitted the issuance of the cheque, it need not be sent to the expert for comparison of the signature in the admitted documents. It is the duty of the petitioner to rebut the presumption. Further, this Court is of the view that the decisions cited supra are not similar to the facts of the present case on hand. In the present case, the petitioner herself clearly admitted the issuance of the blank cheque to the complainant for security purpose.

7. Therefore, this Court does not find any infirmity or illegality in the order passed by the learned Magistrate. The Criminal Revision Case is devoid of merits and the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

8. Since the complaint is pending from the year 2015, the learned Judicial Magistrate No.II, Chengalpattu is directed to dispose of the complaint in C.C.No.1342 of 2015 within a period of six months from today in accordance with law.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ms
To

1.The Metropolitan Magistrate,
Fast Track Court at Magistrate Level -IV,
Chennai.

2.The Judicial Magistrate No.II,
Chengalpattu.

+1cc to M/s.R.Prabhakaran, Advocate Sr.403

Crl. R.C. No.1274 of 2020
and Crl.M.P.No.8950 of 2020

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srg 15/02/2021

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