IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.1379 of 2019
and
Crl.M.P.No.18199 of 2019

C.Sivasundaram
S/o, Chinnasamy ... Petitioner

Versus

P.Ramesh
S/o, Palanisamy
... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 (1) r/w 401 of the Code of Criminal Procedure, to set aside the order dated 31.10.2019 passed in C.M.P.No.5021 of 2019 in S.T.C.No.226 of 2019 on the file of the Judicial Magistrate Court (FTC.No.I) Erode District by allowing the above petition.

For Petitioner : Mr.M.Karthik
for Mr.I.C.Vasudevan

For Respondent : Proof of service not filed

ORDER

This Criminal Revision Petition has been filed to set aside the order dated 31.10.2019 passed in C.M.P.No.5021 of 2019 in S.T.C.No.226 of 2019 on the file of the Judicial Magistrate Court (FTC.No.I) Erode District.

2. The petitioner is the accused and the respondent is the complainant. The respondent filed the private complaint against the petitioner for the offence under section 138 of the Instruments Act before the Judicial Magistrate, FTC No.I, Erode. The learned Magistrate taken the complaint on file in S.T.C.No.226 of 2019. After completing the formalities,

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examined the complainant's side evidence and also completed the proceedings under section 313(1)(b) Cr.P.C. Thereafter, the petitioner sought time for leading defence evidence. After that, instead of taking defence side evidence, he filed a petition in C.M.P.No.5021 of 2019, under section 45 of Indian evidence Act, to send the disputed cheque for expert opinion. That petition was dismissed by the Magistrate. Challenging the said order passed in C.M.P.No.5021 of 2019 by the Magistrate, the petitioner has filed the present revision in the year 2019. When the matter taken up for hearing for admission on 09.12.2019, this Court directed the petitioner to take notice to the respondent and private notice also. For the past three years, he has not filed any proof that he has taken private notice and now the matter is posted today and no proof has been filed so far.

3. Reading of the entire materials, it is found that the respondent has filed the complaint under section 138 of the Negotiable Instruments Act and led a evidence on his behalf. Completing all his evidence and completed 313 Cr.P.C proceedings, the case was posted for defence side evidence. The petitioner neither taken the defence evidence nor advance his arguments, he filed the petition under section 45 of the Indian Evidence Act, for sending the disputed cheque for expert opinion and the same was dismissed. Since the petitioner has every right to challenge the impugned order, has filed the present revision. However, this Court directed the petitioner to take notice to the respondent, but for the past three years he has not taken notice which clearly shows that the aim of the petitioner is only to drag the case and not for anything else. Therefore, this Court finds that there is no merit in the revision and the revision is liable to be dismissed. Accordingly, the impugned order passed by the Magistrate is confirmed. In the disputed cheque, the petitioner denied only the signature. But after receiving notice and summons for the proceedings, he would have taken steps to send the disputed cheque for expert opinion. In this case, he did not do so. Instead, he waited till the completion of the respondent's side/complainant side evidence and till the proceeding of 313 Cr.P.C., seek permission of the court to send the disputed cheque for expert opinion and further, for the past three years, he has not taken any steps to send notice to the respondent and the attitude of the petitioner is very clear. This court does not warrant any interference in the impugned order and the revision is liable to be dismissed.

4. The petitioner is at liberty to take the defence, if any, and then complete his evidence within a month. Thereafter, the trial judge is directed to proceed with the complaint and dispose of the case within two months. Accordingly, the

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Criminal Revision Case is dismissed with the abovesaid direction. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Judicial Magistrate,
   Judicial Magistrate Court (FTC.No.I),
   Erode District.

2. The Section Officer,
   Criminal Section, High Court,
   Madras.

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LN(CO)
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