



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.318 of 2021

and

Crl.MP(MD)No.3128 of 2021

P.Murugan

: Revision Petitioner/Petitioner/
Sole Accused

Vs.

Uma

: Respondent/Respondent/
Complainant

Prayer: Criminal Revision filed under section 397 and 401 of the Code of the Criminal Procedure, against the order passed by the Judicial Magistrate Court (Fast Track Court) (M.L), Theni, Cr.M.P No.452 of 2021 in STC No.65 of 2020, dated 16.03.2021.

For Revision Petitioner : Mr.R.Mariappan

For Respondent : Mr.S.A.Ajmal Khan

O R D E R

This Criminal Revision is filed by the petitioner challenging the order passed by the Judicial Magistrate Court (Fast Track Court) (M.L), Theni, Cr.M.P No.452 of 2021 in STC No.65 of 2020, dated 16.03.2021.

2.The respondent herein filed a private complaint before the Judicial Magistrate (Fast Track Court), (M.L), Theni, in STC No.65 of 2020 alleging that the petitioner/accused approached him and requested to give Rs.4,00,000/- for his urgent needs and assured to return back within three months and he arranged Rs.4,00,000/- and handed over to the petitioner and for that, the petitioner issued a post-dated cheque bearing No.001028, dated 20.04.2020 drawn on City Union Bank, Theni and when it was presented for collection, it was returned on 24.06.2020 stating that **Account Closed**. Pending trial, the petitioner filed a petition under section 45 of the Indian Evidence Act, in Cr.M.P No.452 of 2021 in STC No.65 of 2020 to send the cheque in dispute for comparison with the admitted handwriting. The learned Judicial Magistrate, dismissed the petition on 16.03.2021. Hence, the petitioner is before this court with this criminal revision.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard both sides and perused the materials available on record.



4. The learned counsel appearing for the petitioner/accused submitted that the petitioner never received any amount from the respondent herein and inchoate cheque is not deemed to be the cheque and the respondent himself admitted that unfilled cheque was handed over to him and as such, the presumption is that the respondent cannot claim on the basis of the unfilled cheque and therefore, the expert opinion is necessary to prove the handwriting of the petitioner and the disputed cheque was given to one Ramesh and not to the respondent and hence, it is necessary to send the above cheque for comparison with the admitted signature in the disputed writing in the disputed cheque and prays that the Criminal Revision has to be allowed.

5. On the other hand, it is argued on the side of the respondent/complainant that there was transaction between the respondent and the petitioner and the petitioner alone handed over the cheque to this respondent and it is not necessary that the drawer alone has to fill the cheque and it is enough that drawer affixed his signature and further, the petitioner admitted his signature in the disputed cheque and in order to drag on the proceedings, the petitioner has filed this petition and prays that the Criminal Revision has to be dismissed.

6. In this case, the petitioner admitted that he only gave the signed unfilled cheque. Further, he contended that he has given the signed unfilled cheque to one Ramesh and not to the petitioner and the said Ramesh with the help of the petitioner, filled the cheque and filed this case against the petitioner. It is needless to say that while giving cheque, it is not necessary to fill all the details by the drawer himself. At this juncture, it is necessary to refer section 20 of the Negotiable Instruments Act, which would run thus:-

"20. Inchoate stamped instruments.-Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount, provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder."

7. In this case, the petitioner/accused admitted that he gave only signed unfilled cheque. Whether he gave the cheque to one Ramesh or to the respondent, can be decided only at the time of trial by way of examining the witnesses and production of documents. Further, as per section 20 of the Negotiable Instruments Act, it is not necessary for the drawer to fill all the details in the cheque. Further, he gave authorization to the payee or holder in due course to fill the same. The petitioner himself admitted his signature in the disputed cheque. Hence, it is held that the petitioner gave authorization to the payee to fill up the cheque. Hence, the trial court correctly came to the conclusion that it is not necessary to send the cheque for comparison with the details written in the disputed cheque.

8. In the result, this criminal revision is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate
(Fast Track Court, M.L),
Theni.

Copy to

The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai. (2C)

+1 CC to M/s.S.A.AJMAL KHAN, Advocate(SR-23013[F] dated 16/07/2021)

Cr1.RC(MD) No.318 of 2021

14.07.2021

MGJ(26.07.2021) 3P 5C