



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 01.04.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.737 of 2020

and Crl.M.P.No.7868 of 2020

WEB COPY

P.Muthumaheswaran

.. Petitioner

Vs.

M/s.Kumaraguru Auto Finance,
Represented by it Managing partner,
R.Kathiresan

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records and to set aside the order passed by the Fast Track Court at Magisterial Level, Karur, in Crl.M.P.No.2986 of 2020 in C.C.No.566 of 2016 dated 18.11.2020.

For Petitioner : Mr.C.Jawahar Ravindran
For Respondent : Mr.P.Athimoola pandian

ORDER

This petition has been filed against the order passed in Crl.M.P.No.2986 of 2020 dated 18.11.2020, on the file of the learned Judicial Magistrate, Fast Track Court (FAC), Karur.

2.The petitioner has filed a petition in Cr.M.P.No.2986 of 2020 to sent the pro note dated 02.04.2015 for comparing the signature in the pro notes with the signature in the cheque by the handwriting expert. That petition was dismissed by the trial Court. Against which, the petitioner has preferred this Criminal Revision Case.

3.On the side of the petitioner, it is stated that the complainant is a Finance Company at Karur. The accused is residing at Madurai. The revision petitioner has not seen the defacto complainant. There is no possibility of issuing the cheque on the same day. There is no pleadings or evidence as to when the petitioner has borrowed the money. The month, date or year were not specifically mentioned either in the legal notice or in the case. The date of borrowal and the rate of interest and time for repayment were not stated in the proof affidavit. One of the partners of the defacto complainant is having a separate financial institution in Madurai. He received a cheque but the defacto complainant has used the cheque illegally. The pro notes were filed subsequent to the filing of the complaint. This Court has already given liberty to the petitioner to challenge the pro notes but the petition for hand writing expert opinion was dismissed by the trial Court and prayed the impugned order to be set aside.



4. On the side of the respondent, it is stated that the signature of the petitioner in the cheque leaf was already admitted by the petitioner. The only contention is that the cheque was not handed over to the defacto complainant. In the case before the trial Court, the petitioner has stated that he handed over the cheque to one of the partners of the defacto complainant's institution. Earlier this Court by an order dated 12.11.2019, in Crl.O.P.(MD) No.12659 of 2019, has directed the trial Court to dispose of the proceedings in C.C.No.566 of 2016 within a period of six months. The petitioner is not ready to cooperate for the trial and that only with the motive to drag on the case, the petitioner has filed this petition. The petitioner has filed another petition before this Court, against the order passed in a petition under Section 91 of Cr.P.C. The petition was dismissed by this Court on 17.03.2021. This case was filed on the basis of a cheque. The signature in the cheque was already admitted. There is no necessity to send the pro note for examination by the experts and prayed the petition to be dismissed.

5. It is seen that this Court in Crl.O.P.(MD)No.12659 of 2019, has passed an order to dispose of the case in C.C.No.566 of 2016 within a period of six months. The case was filed in the year 2016. Only after the lapse of four years, the petitioner has filed a petition in Cr.M.P.No.2986 of 2020 for expert opinion. The petitioner is duty bound to rebut the evidence against the cheque leaf. When the signature in the cheque leaf was not questioned by the petitioner, there is no necessity to send pro notes, which was filed as a collateral evidence to be sent for an expert opinion. Even though an opportunity was given to the petitioner to challenge the pro note by the order of this Court dated 12.11.2019, the petitioner has not filed any petition within a reasonable time. The petitioner has filed the petition for expert opinion only on 12.10.2020. When this Court ordered to dispose of the case within a period of six months, the petitioner has taken his own time and has filed the petition for expert opinion on 12.10.2020 I.e. 11 months after the date of order of this Court.

6. In the above circumstances, there is nothing sufficient enough to interfere in the order passed in Crl.M.P.No.2986 of 2020 dated 18.11.2020, on the file of the learned Judicial Magistrate, Fast Track Court (FAC), Karur. Hence, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

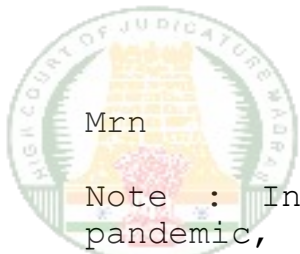
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Assistant Registrar(AE)

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Sub Assistant Registrar(CS)



Mrn

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 (FAC), Karur.

Crl. R.C.(MD)No.737 of 2020
01.04.2021

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