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Crl.R.C.No.125 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYANL**

Crl.R.C.No.125 of 2018

and

Crl.M.P.Nos.939 & 940 of 2018

K.Ashok Kumar

...

Petitioner

Vs

Krishnamurthy

...

Respondent

**Prayer:** Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to call for the records in CMP No.1339 of 2017 in STC No.357 of 2015 on the file of the learned Judicial Magistrate No.I, Tirupattur and set aside the same by allowing this revision.

For Petitioner : Mr.D.Senthur Kugan  
for M/s.Kiruthika Gokulakrishnan  
For Respondent : Mr.G.Vinodh Kumar

### **ORDER**

This Criminal Revision Case has been filed to set aside the order in CMP No.1339 of 2017 in STC No.357 of 2015 on the file of the learned Judicial Magistrate No.I, Tirupattur, thereby dismissing the petition filed under Section 45 of the Indian Evidence Act.



2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instrument Act. On the complaint, the Trial Court had been taken cognizance in STC No. 357 of 2015. Pending trial, the petitioner filed a petition under Section 45 of the Indian Evidence Act to verify the age of the ink and difference in the ink of the letters mentioned in the cheque and the same was dismissed. Aggrieved by the same, the present Revision.

3. The learned counsel appearing for the petitioner would submit that the petitioner has not only prayed to find out the age of the ink and also sought for an opinion on the hand writing in the cheque. He further submitted that the petitioner had borrowed a sum of Rs.50,000/- for his family expenses. According to the complainant, the petitioner borrowed a sum of Rs.1,50,000/- on 14.12.2014 for his family expenses and in order to repay the said amount, the petitioner issued a cheque for a sum of Rs.1,50,000/- on 14.01.2015. When the said cheque was presented for collection, it was returned for the reason 'Fund Insufficient'. After causing notice, the respondent lodged a complaint. The petitioner came to know that there was a difference in the handwriting used in



writing the numbers. Originally, the cheque was filled up for a sum of Rs.50,000/- at a later point of time numeric “1” was added before Rs.50,000/-, thereby converting the cheque to the tune of Rs.1,50,000/-. Further, there is a significant change in the colour of the ink used for writing the numbers. Therefore, the petitioner has not only prayed to find out the age of the ink and also sought for an opinion on the hand writing of the cheque. However, the Court below, without considering the same, dismissed the petition.

4. A perusal of Section 45 of the Indian Evidence Act reveals that to find out the age of the ink and to find out two different inks, no such expert available anywhere in India to find the age of the ink. Further there is also no laboratory to find out such a difference. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

5. However, the learned counsel for the petitioner would submit that there is a difference in the hand writing and he may be permitted to move fresh application and to get expert opinion on the hand writing.



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6. In view of the above, this Criminal Revision Case stands dismissed. However, the petitioner is at liberty to file a petition to get hand writing expert opinion, in the manner known to law, if so advised. Consequently, connected miscellaneous petitions are closed.

26.09.2022

Internet:Yes  
Index:Yes/No  
Speaking/Non speaking order  
Lpp

To

The Judicial Magistrate No.I,  
Tirupattur.



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**G.K.ILANTHIRAIYAN. J.**

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