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Crl.RC.No 477 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2022

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THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.RC No. 477 of 2020
and CRL.MP.No. 3806 of 2020

K.K. Shamuvel

... Petitioner

vs.

N.Natarajan

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 CrPC to set aside the order dated 06.01.2020 passed in Crl.MP.No. 17022 of 2019 in C.C.No. 125 of 2017 and by allowing the Crl.MP.No. 17022 of 2012 on the file of the Judicial Magistrate No.II (FTC at Magisterial Level), Coimbatore.

For Petitioner : Mrs.T.Kalpana Devi

For Respondent : Mr. N.Ishtiaq Ahmed

ORDER

Aggrieved by the order dated 06.01.2020 passed in Crl.MP.No. 17022 of 2019 in C.C.No. 125 of 2017 Judicial Magistrate No.II (FTC at Magisterial Level), Coimbatore, the present criminal revision petition is filed.



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2. Brief facts of the case is that the respondent herein has filed a complaint against the petitioner under Section 138 of N.I Act before the Judicial Magistrate -II (FTC Magisterial Level), Coimbatore. The said complaint was taken on file in C.C.No. 125 of 2017 by the trial Court. Pending the said complaint, the petitioner herein/accused has filed a petition in Crl.MP.No. 17022 of 2019 under Section 45 of Evidence Act. The said Petition was dismissed by the trial Court. Challenging the same, the present revision is filed by the petitioner herein/accused.

3. Though the learned counsel appearing for the parties concerned are not ready to argue the matter, this Court, based on the materials available on record and taking into consideration the fact that complaint is pending before the trial Court from the year 2017 taken up the case and disposed of the same on merits.

4. A careful perusal of records would reveal that though the petitioner/accused has filed the petition in Crl.MP.No. 17022 of 2019 seeking expert opinion of the signature of the petitioner made in the pro-note filed by the complainant/respondent herein, the petitioner has not



stated any reason that necessitates for expert opinion. The petitioner has simply filed a petition invoking Section 45 of Evidence Act and he has also not filed any affidavit to that effect. The trial Court has also rightly dismissed the said miscellaneous petition on the ground that the said petition has not accompanied with the affidavit and no reasons have been stated in support of the prayer sought for in the petition.

5. In view of the above, it is clear that the petitioner has not approached the Court with clean hands and only to protract the proceedings, the petitioner/accused has filed the petition in Crl.MP.No. 17022 of 2019 before trial Court without mentioning any reason for expert opinion of the signature in the pro-note. Further, the learned counsel for the respondent has pointed out that the complaint was preferred based on the cheque and not based on the pro-note.

6. Considering the facts and circumstances of the case, this Court is of the view that there is no perversity or illegality in the order passed by the trial Court in Crl.MP.No. 17022 of 2019 dated 06.01.2020 and the present criminal revision petition is liable to be dismissed.



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P.VELMURUGAN, J.

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7. In the result, the present criminal revision petition is dismissed as devoid of merits. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
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