



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

CrI.R,C.No.958 of 2019
and
CrI.M.P.No.13593 of 2019

S.Mohammed Ali ...Petitioner/Accused
Vs.
P.Kamalasekar ...Respondent/Complainant

Criminal Revision filed under Section 397 of Criminal Procedure Code, praying to set aside the order dated 31.05.2019 made in CrI.M.P.No.2751 of 2017 in S.T.C.No.1484/2014 on the file of Judicial Magistrate No.1, Krishnagiri.

For Petitioner : Mr.V.Rameshvel

For Respondent : Mr.G.Babu

ORDER

This revision is preferred by the accused in STC.No.1484 of 2014 on the file of Judicial Magistrate I, Krishnagiri. The complaint was laid by the respondent under Section 200 Cr.P.C., for an offence under Section 138 of the Negotiable Instruments Act. He has preferred this revision challenging an order of the learned Magistrate in CrI.M.P.No.2751 of 2017, directing comparison of his disputed signature in the cheque that he is alleged to have issued to the respondent/complainant with his admitted signature in any sale deed that the former had executed.

2.To state the facts briefly, it is the case of the defacto complainant/respondent that towards a discharge of an outstanding liability, the revision petitioner herein has issued a post-dated cheque dated 25.07.2014, for a sum of Rs.10,00,000/-, that when it was presented for collection, the same was dishonoured by the revision petitioner's banker on 25.07.2014, on grounds of insufficiency of funds. This was intimated by the the banker of the revision petitioner to the revision petitioner himself, and he promptly issued a notice dated 06.08.2014 informing his banker that the cheque in question might have been stolen and if he had verified the signature therein. In the meantime, the respondent/defacto



complainant issued a statutory notice under Section 138 of the Negotiable Instruments Act on 12.08.2014. It was replied to by the revision petitioner vide his reply dated 16.08.2014, wherein he indicated about the earlier notice dated 06.08.2014 to issued by him to his banker. Subsequently, the respondent/defacto complainant laid his complaint and the learned Magistrate has taken cognizance of the same.

3.The trial of the case commenced. About that time, the revision petitioner herein has taken out an application in Crl.M.P.No.2751 of 2017 for appointing an expert to compare his signature in the cheque involved in the case. The learned Magistrate vide his order dated 31.05.2019 allowed it, but directed the revision petitioner to produce any sale deed containing his signature executed about the time of the date of the cheque. This portion of the order is now under challenge in this case.

4.Heard both sides. All this court requires is only certain admitted signature and preferably about the time when the cause of action has arisen. So far as comparing a signature of drawer of the cheque is concerned, the bank always compares it with the specimen signature of the drawer that it maintains. It is only after it satisfies that the signature of the drawer of the cheque matches with the specimen signature of the drawer, it satisfies itself of its genuineness. Therefore, in all cases, where the Court considers a need to obtain an opinion of an expert on the genuineness of the signature of the drawer of the cheque, it is sufficient that it is compared with the specimen signature which the bank maintains. There may however, be cases where the drawer of the cheque deliberately alter his signature and leave the complainant with no opportunity to suspect it. That however, is an aspect to be considered on facts of each particular case.

5.In conclusion the order of the learned Magistrate is modified and the expert is now required to compare the purported signature of the petitioner in the cheque bearing No.037173 drawn on Central Bank of India, Krishnagiri Branch, with his specimen signature with the said bank.

6.The Criminal Revision case is disposed of with the above direction. Consequently, connected Crl.M.P., is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nvsri



To

The Judicial Magistrate No.1,
Krishnagiri.

WEB COPY

+1cc to Mr.V.Rameshvel, Advocate, S.R.No.12478

Cr1.R.C.No.958 of 2019

MT (CO)

RGA (06/05/2022)