



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

CrI.R,C.No.960 of 2019
and CrI.M.P.No.13596 of 2019

S.Mohammed Ali

... Petitioner/Accused

Vs.

K.Arulselvi

... Respondent/Complainant

Criminal Revision filed under Section 397 r/w.401 of Criminal Procedure Code, praying to set aside the order dated 31.05.2019 made in CrI.M.P.No.2752 of 2017 in S.T.C.No.1486 of 2014 on the file of Judicial Magistrate No.1, Krishnagiri.

For Petitioner : Mr.V.Rameshvel

For Respondent : Mr.G.Babu

O R D E R

This revision is preferred by the accused in STC.No.1486 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.

2.To state the facts briefly, it is the case of the defacto complainant/respondent, towards a discharge of an outstanding liability, the revision petitioner herein had issued a post dated cheque dated 16.07.2014 for a sum of Rs.20,00,000/-. That when it was presented for collection, the same was dishonoured by the revision petitioner's Bank on 16.07.2014 on grounds of "insufficient funds". The said petitioner's banker intimated to the revision petitioner about the dishonour of the cheque. On getting the information from the Banker, the revision petitioner issued a notice dated 06.08.2014 informing his Banker that his cheque might have been stolen and if he had verified the



signature therein. Subsequent to this communication from the revision petitioner to his Banker, the respondent/de facto 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 10.08.2014 wherein he indicated about the earlier notice dated 16.08.2014 to his Banker. Subsequently, the respondent/de facto complainant laid his complaint and the learned Magistrate has taken cognizance of the same. The trial of the case commenced; about the time, the revision petitioner herein has taken out an application in Crl.M.P.No.2752 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 has allowed it but directed the revision petitioner to file any sale deed wherein his signature executed about the time of the date of the cheque. This portion of the order is now under challenge in this case.

3. Heard both sides.

4. All this court requires is only certain admitted signature and preferably about the time when the cause of action has arisen. So far as the cheque is concerned, it ought to be passed by the Banker on satisfying itself the genuineness of the signature of the drawer on comparing it with the specimen signature. Therefore, in all such cases, it is only appropriate that any disputed signature in the cheque is to be compared with the specimen signature which the Bank preserved. Therefore, 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.042526 drawn on Central Bank of India, Krishnagiri Branch. The court is also required to act upon any of the certified copy. The trial court is required to dispose of the matter within a period of four (4) months from the date of receipt of a copy of this order.

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

6. Registry is required to intimate the concerned Magistrate forthwith.

Sd/-
Assistant Registrar(Digit.)

//True Copy//

Sub Assistant Registrar



nvsri
To

The Judicial Magistrate No.1,
Krishnagiri.

+1cc to M/s.V.Ramesh vel, Advocate Sr.12479

Cr1.R.C.No.960 of 2019

ssn[co]
srg 28/02/2022