



Crl.R.C.No.1131 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2022

CORAM :

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1131 of 2021

and

Crl.M.P.No.14458 of 2021

M.Manoharan

...Petitioner

..VS..

K.Ravichandran

... Respondent

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C to set aside the order dated 11.11.2021 made in C.M.P.Nos.2625 and 2626 of 2021 in S.T.C.No.80 of 2017 on the file of the Judicial Magistrate (Fast Track Court No.II), Erode by allowing this petition.

For Petitioner : Mr.C.Ramaraj
For Respondent : Mr.V.S.Kesavan

ORDER

This revision case has been preferred challenging the order dated 11.11.2021 made in C.M.P.Nos.2625 and 2626 of 2021 in S.T.C.No.80 of 2017 on the file of the Judicial Magistrate (Fast Track Court No.II), Erode.



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2.Heard the learned counsel for the petitioner, the learned counsel for the respondent and perused the materials available on record.

3.The petitioner is the accused, against whom, the respondent/complainant filed a private complaint in S.T.C.No.80 of 2017 before the learned Judicial Magistrate (Fast Track Court No.II), Erode. During the pendency of the said case, the petitioner/accused filed miscellaneous petitions in C.M.P.Nos.2625 and 2626 of 2021 seeking to re-open and re-call the evidence of P.W.1 and to send the disputed cheque for expert opinion along with the admitted signature of the accused under Section 45 of the Indian Evidence Act, 1872. The said petitions were dismissed by the Court below. Aggrieved by the same, the petitioner has preferred the present revision.

4.The learned counsel for the petitioner submitted that the respondent/complainant along with one Gopal used to often visit the office of the petitioner and they stole the alleged cheque from his office and forged his signature and his office seal and preferred a false complainant against the petitioner. He further submitted that right from questioning under Section



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313 Cr.P.C and at the time of cross examination of P.W.1, the petitioner has denied the signature found in the cheque/Ex.P1. Hence, the petitioner has filed petitions to re-call and re-open evidence of P.W.1 and for sending the disputed cheque to the forensic laboratory. The Court below without considering the contentions raised by the petitioner had dismissed the petitions, which warrants interference of this Court.

5. The learned counsel for the respondent seeks time for arguing the matter. S.T.C is pending from the year 2017 and even without any proper papers, the respondent seeks time.

6. Admittedly, the petitioner is the accused, against whom, the respondent/complainant filed S.T.C.No.80 of 2017 before the learned Judicial Magistrate (Fast Track Court No.II) Erode for the offence under Section 138 of the Negotiable Instruments Act, 1881. The respondent/complainant issued a statutory notice to the petitioner/accused, but he has not sent any reply. Non-sending of the reply is not the sole ground to disallow the defence taken by the petitioner, but he has not raised any



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defence with other available materials.

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7. A careful reading of the entire materials, it is seen that the petitioner/accused never put any suggestion that the signature found in the disputed cheque is not that of the petitioner and the seal of the petitioner/accused firm is forged by the respondent/complainant. Even assuming that the signature is disputed and the petitioner has not sent any reply, soon after receiving summons, but he should have taken steps and filed a memo before the Court for verification of the disputed cheques. After verification, if the petitioner/accused found that signature is not that of the petitioner or any of the material alteration, then he should have filed a petition before commencement of the trial by invoking Section 45 of the Indian Evidence Act, 1872. However, still after commencement of the trial and on completion of the complainant side evidence, the petitioner has not taken any steps, but he has taken suggestion while questioning under Section 313 Cr.P.C. Therefore, this Court finds that the petitioner has chosen to file the petitions by invoking Section 45 of the Indian Evidence Act, 1872 at the fag end of the case, only to drag on the proceedings.



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8. In view of the above facts and circumstances, this Court does not find any perversity in the order passed by the learned Magistrate and this revision is devoid of merits.

9. In the result, this Criminal Revision Case is dismissed and the order dated 11.11.2021 made in C.M.P.Nos.2625 and 2626 of 2021 in S.T.C.No.80 of 2017 by the learned Judicial Magistrate (Fast Track Court No.II), Erode is confirmed. Consequently, connected miscellaneous petition is closed.

10.10.2022

Index: Yes/No
Speaking Order/Non-Speaking Order
ms

To
The Judicial Magistrate
(Fast Track Court No.II),
Erode.



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P.VELMURUGAN, J.

ms

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