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Crl.R.C.Nos.1492, 1493 & 1494 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case Nos.1492, 1493 and 1494 of 2022

and

Crl.M.P.Nos.17171, 17172, 17177, 17178, 17180 and 17181 of 2022

E.Radhakrishnan

... Petitioner
in all Crl.RCs

Versus

Chandrika

... Respondent
in Crl.R.C.No.1492 of 2022

Santhakumari

... Respondent
in Crl.R.C.No.1493 of 2022

Chandran

... Respondent
in Crl.R.C.No.1494 of 2022

Common Prayer:

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to set aside the order passed by the learned IV FTC Metropolitan Magistrate, George Town, Chennai in Crl.M.P.Nos.61, 62 and 59 of 2020 respectively, dated 20.09.2022, and to pass order to send the disputed cheque bearing No.544754 dated 12.06.2018 for Rs.9,00,000/- (Rupees Nine Lakh Only) drawn to Axis Bank Ltd., T.Nagar Branch, Chennai-17 and the confirmation deed to ascertain the correctness and genuineness of the petitioner signature appearing on the confirmation deed within the same and also on the disputed cheque to Forensic Department for getting opinion from the handwriting expert.



For Petitioners
in all Crl.RCs : Mr.Arun.G

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COMMON ORDER

These revision cases arising out of the dismissal orders dated 20.09.2022 passed by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai.

2. The revision petitioner is the accused and the respondents are the complainants.

3. The respondents filed private complaints under Section 200 Cr.P.C in C.C.Nos.2214, 2212 and 2215 of 2018, respectively against the petitioner for an offence under Section 138 of the Negotiable Instruments Act, 1881. During trial, the respondents/complainants were examined as P.W.1 and the complainants' side evidence was closed on 12.12.2019. Subsequently, the petitioner/accused filed the petitions in Crl.M.P.Nos.61, 62 and 59 of 2020 respectively, under Section 45 of the Indian Evidence Act seeking to send the disputed cheque dated 12.06.2018 and the Deed of Confirmation to Forensic Department for getting opinion from the hand writing experts to ascertain the correctness and genuineness of the petitioner's signature in the Deed of Confirmation and also in the disputed cheque. In the said petitions, the main



contention raised by the petitioner/accused is that he did not put any signature in the Deed of Confirmation and also in the disputed cheque. After enquiry, the learned Magistrate found that the cheque was returned as signature differs and the accused can very well summoned the Bank Officials to prove the signatures and also the petitioner would have filed any contemporaneous documents to show that the admitted signature is prior to the disputed signatures, but he failed to do so. Therefore, the learned Magistrate on the findings that the Calendar Cases are pending from the year 2018 and the complainants' side evidence also closed and only in order to drag on the proceedings, the petitioner has filed these petitions in the year 2020 and dismissed the petitions. Aggrieved by the same, the petitioner/accused has filed the above revision cases before this Court.

4. The learned counsel for the revision petitioner/accused submitted that the petitioner denied the signatures found in the disputed cheque dated 12.06.2018 and also in Ex.P1/Deed of Confirmation. He has also pointed out that the signature found in the 2nd page of Ex.P1 differs from the alleged signature of the petitioner affixed over the revenue stamp and also the signature found in Ex.P2/cheque. Therefore, the petitioner has filed the



petitions under Section 45 of the Indian Evidence Act to send the disputed cheque and Deed of Confirmation to Forensic Department for getting expert opinion. However, the learned Magistrate failed to consider the defence taken by the petitioner that he has not signed in both Ex.P1 and Ex.P2 and the respondents had fabricated the signature of the petitioner and instituted the case to illegally extract money from him has dismissed the petitions erroneously without affording an opportunity to the petitioner to substantiate his defence, which warrants interference of this Court.

5. Today, the matter is listed under the caption "for admission" and this Court after hearing the arguments of the learned counsel for the petitioner and perused the grounds raised in the revision petitions and the order of the learned Magistrate, finds that there is no perversity in the order passed by the learned Magistrate.

6. On a careful reading of the entire materials, it is seen that the petitioner has not raised any sustainable grounds that the alleged cheque dated 12.06.2018 issued to the respondents and the same was dishonored for the reason "Drawer Signature Differ" and that the respondents/complainants



issued statutory notice dated 25.07.2018 to the petitioner. In the complaint the respondents have clearly stated that statutory notice was duly sent to the correct address of the petitioner and the said notice was willfully unclaimed by the petitioner on 28.07.2018. The petitioner neither sent any reply nor repaid the cheque amount within the stipulated period, the respondents filed the private complaint against the petitioner. After receipt of the summons, the petitioner entered appearance through his counsel and the matter was pending from the year 2018. In the complaint itself, the respondents annexed the list of documents viz. (i) Deed of Confirmation; (ii) Cheque dated 12.06.2018; (iii) Return memo dated 13.06.2018; (iv) Legal Notice dated 25.07.2018; and (v) Postal card return dated 28.07.2018. Therefore, Document No.1 shows the Deed of confirmation and Document No.2 shows the disputed cheque dated 12.06.2018. On receipt of summons the petitioner appeared through his counsel. If at all the petitioner has not signed those documents and he has not issued those documents i.e. Document Nos.1 and 2, he would have taken steps by filing a memo through his counsel for inspection of those documents. After inspection, if the petitioner found that those documents were not issued by him and the signatures are not that of the petitioner he would have immediately taken steps to send those documents for getting expert opinion,



whereas he has not chosen to show any interest in the said cases and waiting from 2018 to 2022, till the complainants' side evidence was closed on 12.12.2019. Thereafter, in the year 2020, the above petitions were filed. The petitioner has not taken evidence on the side of the defence and he has not produced any contemporary documents, which contains the admitted signature of the petitioner prior to the date of issuance of the disputed signature in the cheque. As pointed out by the learned Magistrate the petitioner could have summoned the Manager of the Bank, wherein the original signature was found and examined them or would have examined the documents which contains the contemporary signatures, which is prior to the disputed signatures. Without the same, the petitioner filed the petitions after closing the complainants' side evidence. Therefore, the learned Magistrate has rightly arrived at the conclusion that the petitioner has filed the petitions only to protract the proceedings and has dismissed the petitions.

7. This Court gone through the entire materials and finds that the petitioner without filing any documents, which contains the admitted signature prior to the documents simply filed the petitions only to drag on the proceedings and not to substantiate his defence. Hence, there is no merit in



the revisions.

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8. Under these circumstances, this Court finds that there is no substantive ground in the revisions. Therefore, these Criminal Revision Cases are dismissed in *limine* and the order dated 20.09.2022 passed by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai are confirmed. Consequently connected miscellaneous petitions are closed.

15.11.2022

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

To

The Metropolitan Magistrate,
IV Fast Track Court,
George Town, Chennai.



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P.VELMURUGAN, J.

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