



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.R.C. (MD)No.57 of 2021

and

CrI.M.P (MD)No.834 of 2021

K.Sowdeeswari ... Petitioner/Respondent/Respondent/Complainant
Vs.
Nachimuthu ... Respondent/Petitioner/Petitioner/Accused

Prayer: This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for record and set aside the order made in Cr.R.P.No.9 of 2019 by the learned Principal Sessions Judge, Dindigul, dated 11.11.2020 by reversing the order made in Cr.M.P.No.3059 of 2019 in C.C.No.185 of 2016 by the learned Judicial Magistrate No.2, Dindigul, dated 25.03.2019.

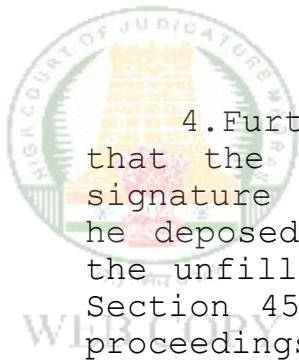
For Petitioner : Mr.D.Venkatesh
For Respondent : Mr.Chandra Kumar

ORDER

The criminal revision petition has been filed seeking to quash the order made in Cr.R.P.No.9 of 2019 by the learned Principal Sessions Judge, Dindigul, dated 11.11.2020 by reversing the order made in Cr.M.P.No.3059 of 2019 in C.C.No.185 of 2016 by the learned Judicial Magistrate No.2, Dindigul, dated 25.03.2019.

2.The petitioner is the defacto complainant and the respondent is the accused. The petitioner had initiated proceedings for the offence under Section 138 of Negotiable Instruments Act. After examination of all the witnesses, after completion of questioning under Section 313 of Cr.P.C and also after examination of defence witnesses, the respondent had filed a petition under Section 45 of the Indian Evidence Act, 1872 to compare the signature in the cheque and the signature in the questioning under Section 313 of Cr.P.C. Though the trial Court dismissed the petition, the revisional Court allowed the same, on the ground that the respondent may be given one more opportunity to prove his side.

3.On perusal of records revealed that the cheque was signed by the respondent in English whereas, the respondent signed in Tamil in the questioning under Section 313 of Cr.P.C. Therefore, there is absolutely no possibility for comparing the signature in the cheque with the signature found in 313 of Cr.P.C. questioning. That apart, on receipt of the notice issued under Section 138 of Negotiable Instruments Act, the respondent failed to reply thereby, denying the signature found in the cheque.



4.Further, on perusal of the examination of P.W.1, revealed that the cheque was obtained in force and he never denied the signature found in the cheque. Further, during cross examination, he deposed that the cheque was obtained by coercion and signed in the unfilled cheque. Therefore, the petition had been filed under Section 45 of the Indian Evidence Act, 1872, only to drag on the proceedings, that too, after examination of D.W.1 to D.W.3.

5.Considering all those facts, the trial Court rightly dismissed the petition. However, the revision Court, at wrong perception, set aside the order passed by the trial Court. Therefore, the order passed by the revisional Court is set aside and the order passed by the trial Court is restored and confirmed. The Criminal revisional petition is allowed. The trial Court is directed to complete the trial within a period of four weeks from the date of receipt of a copy of the order. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No. II,
Dindigul.

2.The Principal Sessions Judge, Dindigul.

Copy to

The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai

CrI.R.C. (MD) No.57 of 2021
20.04.2022

CK(CO)
KB(04.05.2022) 2P 5C