



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2022

CORAM:

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

Crl.R.C. (MD)No.430 & 431 of 2020

WEB COPY

In both cases:

S.Rajkumar

... Petitioner/Petitioner/Respondent

Vs.

M.E.Mohammed Iliyas

... Respondent/Respondent/Complainant

Common Prayer: These Criminal Revision Petitions filed under Section 397 r/w 401 Cr.P.C. to call for the records and set aside the Judgments and decree orders dated 23.01.2020 in Cr.M.P.No.2091/2019 & Cr.M.P.No.2092/2019 in STC.No.443/2017 on the file of the Additional District Munsif cum Judicial Magistrate Court, Veda sandur.

For Petitioner : Mr.H.Lakshmi Shankar

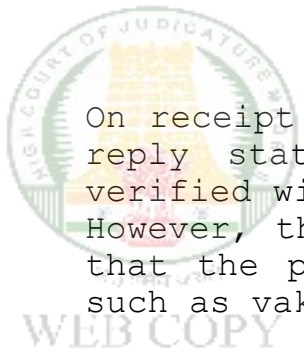
For Respondent : Mr.S.Palanivelayutham

COMMON ORDER

These Criminal Revision Petitions have been filed against the orders dated 23.01.2020 in Cr.M.P.No.2091/2019 & Cr.M.P.No.2092/2019 in STC.No.443/2017 on the file of the Additional District Munsif cum Judicial Magistrate Court, Veda sandur, thereby, dismissing the application filed for to send the HDFC's bank cheque and the specimen signatures contained in account ledger book from the HDFC bank & Karur Vysya Bank, for Handwriting Expert's opinion.

2.The petitioner is the accused. The respondent is the complainant and he lodged complaint for the offence under Section 138 of Negotiable Instruments Act, as against the petitioner. While pending trial, the petitioner filed application for to send the HDFC's bank cheque and the specimen signatures contained in the account ledger book from the HDFC bank & Karur Vysya Bank, for Handwriting Expert's opinion, on the ground that after receipt of statutory notice, as contemplated under Section 138 of Negotiable Instruments Act, the petitioner gave a reply and categorically stated that the complainant is a stranger to him and he never issued any cheque in favour of the respondent. Further the signature found in the cheque is also disputed.

3.The case of the petitioner is that the alleged cheque was already stolen, when the renovation work of his house was going on.



On receipt of the reply, the respondent had sent a rejoinder to the reply stating that his signature in the cheque can be easily verified with the account ledger, from which, the cheque was issued. However, the trial court dismissed the petition only for the reason that the petitioner's signature is deferred in all the documents, such as vakalat and other documents, which are available on record.

4. In view of the above, both the impugned orders in Cr.M.P.No.2091/2019 & Cr.M.P.No.2092/2019, dated 23.01.2020 in STC.No.443/2017, passed by the learned Additional District Munsif cum Judicial Magistrate, Veda sandur are set aside and the Criminal Revision Petitions are allowed.

5. The learned Judicial Magistrate is directed to send for the account ledger book, in pursuant to the account number 185010500000937 of HDFC bank, Dindigul branch and the account ledger book in pursuant to the account number 16961550000029345 of Karur Vysya bank, Veda santhur branch and on receipt of the same, the learned Magistrate is directed to send the same along with the disputed cheque bearing No.099356 dated 25.03.2017, for Handwriting Expert's opinion. The said process to be completed, within a period of eight weeks, from the date of receipt of a copy of this order. On receipt of the report from the Handwriting Expert, the learned Magistrate is directed to complete the trial, within three months, thereafter.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Additional District Munsif cum
Judicial Magistrate, Veda sandur

COPY TO

The Registrar(Judicial)
Madurai Bench of Madras High Court,
Madurai.

COMMON ORDER IN
Crl.R.C.(MD)No. 430 & 431 of 2020
02.03.2022