



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C. (MD)No.134 of 2022

&

Crl.M.P. (MD)No.2350 of 2022

S.M.Shekfarith

... Revision Petitioner/
Petitioner/Sole Accused

Vs.

M.Rajkumar

.. Respondent/ Respondent
Complainant

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, call for the records and set aside the order, dated 17.12.2021 passed in Crl.M.P.No.799 of 2019 in C.C. No.1 of 2018 by the learned Additional District Munsif-cum-Judicial Magistrate, Vendasandur by allowing the above Criminal Revision.

For Petitioner : Mr.V.R.Venkatesan
For Respondent : Mrs.S.Prabha

O R D E R

This Criminal Revision Case has been filed to set aside the order, dated 17.12.2021 passed in Crl.M.P.No.799 of 2019 in C.C.No.1 of 2018 by the learned Additional District Munsif-cum-Judicial Magistrate, Vendasandur, thereby, dismissing the petition filed by the petitioner under Section 45 of the Indian Evidence Act.

2. The petitioner is an accused and the respondent is the complainant. The respondent had filed a complaint for the offence punishable under Section 138 of Negotiable Instruments Act alleging that in order to repay the loan amount, the petitioner has issued a cheque and when the same was presented for collection, it was returned as "funds insufficient". Thereafter, the respondent had issued a legal statutory notice and lodged complaint. However, the petitioner disputed the signature found in the cheque and file the petition under Section 45 of Indian Evidence Act. The petitioner filed the petition under Section 45 of Indian Evidence Act he failed to produce contemporaneous documents which sought to be compared with the Ex.B.1. That apart, the petitioner has also remained absent and hence the Court below dismissed the petition.



3. The learned counsel for the petitioner would submit that he may be given one more opportunity to file yet another petition with better affidavit along with contemporaneous document with signatures.

4. In view of the above submission and since the petition was dismissed for technical reason, he may be given one more opportunity to file a fresh petition. Accordingly, the order passed in Crl.M.P.No.799 of 2019 in C.C.No.1 of 2018 dated 17.12.2021, by the learned Additional District Munsif-cum-Judicial Magistrate, Vedasandur, is set aside and the Criminal Revision Case is allowed. Consequently, connected miscellaneous petition is closed.

5. The petitioner is directed to file a petition in Section 45 of Indian Evidence Act within a period of two weeks from the date of receipt of copy of this order. On receipt of the same, the learned Additional District Munsif-cum-Judicial Magistrate, Vedasandur, is directed to pass orders on merits and in accordance with law.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:-

The Additional District Munsif-cum-Judicial Magistrate,
Vedasandur.

Copy to

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

+1 CC to M/s.V.R.VENKATESAN, Advocate (SR-12939[F] dated 18/03/2022)

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RK(18/04/2022) 2P 5C

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