



Crl.RC (MD)No.590 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 17.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Crl.RC(MD)No.590 of 2019
and
Crl.M.P(MD) No.7394 of 2019

Dr.D.Arjunnan,MD,
S/o.Late B.Durairaj,
Government Shiddha Hospital,
Kottar, Nagercoil,
Kanyakumari District.

: Petitioner

Vs.

S.Arumugam

: Respondent

PRAYER: The Criminal Revision case is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order made by the learned Judicial Magistrate, Srivaigundam, in Crl.M.P.No.3260 of 2014 in STC No.934 of 2012 dated 04.12.2015 and to set aside the said order.

For Petitioner : Mr.S.R.Anbarasu

For Respondent : Mr.T.Selvam



Crl.RC (MD)No.590 of 2019

ORDER

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This criminal revision case has been filed to set aside the order dated 04.12.2015, made in Crl.M.P.No.3260 of 2014 in STC No.934 of 2012, on the file of the learned Judicial Magistrate, Srivaigundam.

2. It is stated by the petitioner that he borrowed a meager amount from the respondent and had issued a blank cheque duly signed by him. The said loan amount is subsequently repaid. But the respondent has not returned the said cheque. Now, the respondent has utilized the said cheque and has filed the complaint with ulterior motive. During the pendency of the complaint, the petitioner/accused filed the petition under Section 45 of the Indian Evidence Act before the Trial Court for appointing an Advocate Commissioner for obtaining opinion from the concern expert in respect of the disputed cheque. The Trial Court dismissed the said petition. Challenging the same, he filed the present revision.

3.The learned counsel appearing for the petitioner would submit that the signature and other contents in the cheque and the age of the ink are differed and the same could only be find out by an expert and then only the



Crl.RC (MD)No.590 of 2019

fraud played upon by the respondent would be proved. He would further submit that there is no illegal impediment in allowing the petition to verify the deference between the signature and other contents in the cheque, but the Trial Court without considering the crux of the dispute wrongly dismissed the petition filed by the petitioner. Therefore, he seeks to set aside the order.

4.The learned counsel for the respondent would submit that the case is pending from the year 2012. The petitioner has admitted the issuance of the cheque and his signature. The petitioner filed this application only to drag on the matter. Further, the Trial Court has rightly dismissed the application filed by the petitioner and this Court need not interfere with the said order. Therefore, the criminal revision may be dismissed.

5.Heard both sides and perused the materials available on record.

6. There can be no denial of the fact that the accused needs to be afforded a fair trial to exhaust all his defences available to him. But, the age of the ink cannot be determined by an expert with scientific accuracy and no



Crl.RC (MD)No.590 of 2019

expert in the field of forensic science. Further, the Trial Court, after observing the Judgment of this Court made in Crl.RC.Nos.49 and 50 of 2009, dated 21.01.2010 [R.Jegadeesan vs. N.Ayyasamy], dismissed the petition filed by the petitioner. This Court finds no merit in this Revision. Hence, this Criminal Revision Case is liable to be dismissed.

7.Accordingly, this Criminal Revision Case is dismissed.
Consequently, connected miscellaneous petition is also dismissed.

17.11.2022

Index : Yes/No
Internet : Yes/No
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To:-

- 1.The Judicial Magistrate,
Srivaigundam.
- 2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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A.A.NAKKIRAN.J.

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