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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08/12/2022

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.RC(MD)No.814 of 2022

J.Thayamal : Petitioner/Petitioner/
Sole Accused

Vs.

T.Ragupathi : Respondent/Respondent/
Complainant

Prayer:- This Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records in Cr.M.P No.3069 of 2021 in CC No. 109 of 2018 on the file of the Fast Track Court (Judicial Magistrate Level), Kovilpatti, Thoothukudi District and set aside the order, dated 17/12/2021 and pass such further or other orders.

For Petitioner : Mr.S.Saravanan

For Respondent : Mr.M.S.Jeyakarthick

**ORDER**

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This revision has been preferred against the order of the trial court allowing the petition filed by the respondent under section 45 of the Indian Evidence Act.

2.The facts in brief:-

The respondent is the accused of the offence alleged to have committed under section 138 of the Negotiable Instruments Act. The case of the complainant is that the accused borrowed a sum of Rs.7,00,000/- on 27/07/2016. At that time, he promised to repay the same within six months, but that promise was not complied. Due to repeated demands, he issued a cheque dated 22/06/2017 for the above said amount. That was presented for payment on 27/06/2017 and that was also returned as funds insufficient. After completing the statutory formalities, the complaint was filed.

3.During the course of the trial process, the accused filed the above said petition seeking an order to send the disputed document for expert examination and that was allowed.



4.The above said petition was filed on the ground that there was money transaction between her husband and the complainant. Because of the money transaction, continuous torture has been made by the complainant. Due to it, the husband committed suicide, over which a case in SC No.55 of 2020 is pending before the 5th Additional District Judge, Madurai. At that time, the above said transaction, the complaint alleged to have obtained the blank cheque which belongs to the accused. Now after the death of the husband, the above said complaint has been filed. The accused filed a petition before the trial court for sending the disputed document for expert examination. That was dismissed, over which the Cr1.RC(MD)No.395 of 2021 was preferred and that was also dismissed. But however, liberty was granted to the accused to file petition at the appropriate time. Now three witnesses have been examined on the side of the complainant and the disputed document is also marked. So the above said petition was filed and that was allowed. The respondent herein on the ground that during section 313(1)(b) Cr.P.C proceedings the accused has not denied her signature.



5. With regard to the above said disputed cheque deposition copies were called for. The petitioner has produced the deposition copies of the witnesses. It has been stated by PW1 that this document bears the signature of the petitioner. According to the complainant, it was signed by the accused namely the petitioner and other things were filled up by him and it is also suggested that the complainant has forged the signature of the accused.

6. The contention raised by the respondent to the effect that cheque was returned as insufficient funds and not for differing the signature. With regard to the death of the husband of the petitioner, a case has been registered for the offence under section 306 IPC against the complainant and others. It is also admitted by the complainant. Whether it has any impact is a matter for consideration by the trial court during the trial process. The trial court has taken into account the answer given by the accused during 313(1)(b) Cr.P.C proceedings.

7. Now the case of the accused is that by misusing



the cheque, which was given by her, at the time of borrowing money by her husband from various persons, the case has been filed. Since there is an admission on the part of the petitioner to the effect that there was money transaction between her husband and the complainant, whether the disputed cheque has been issued towards the discharge of the liability of her husband or herself is a matter for consideration by the trial court.

8.Considering the above said limited issue involved in the facts and circumstances of the case, I find that no ground is made out by the petitioner to interfere the order that has been passed by the trial court.

9.In the result, this criminal revision fails and the same is **dismissed**.

08/12/2022

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Internet:Yes/No
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To,

The Fast Track Court (Judicial
Magistrate Level),
Kovilpatti.



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G . ILANGO VAN , J

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