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THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/11/2022

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

Cr1.RC(MD)No.1109 of 2022

and

Cr1.MP(MD)No.14083 of 2022

Thiru.Loganathan : Petitioner/Respondent

Vs.

Thirumathi.Mankayarkarasi : Respondent/Complainant

PRAYER:-This Criminal Revision has been filed under section 397 and 401 of the Criminal Procedure Code, to call for the records in Cr1.MP No.1503 of 2021 in CC No.96 of 2017, dated 24/06/2022 on the file of the Judicial Magistrate No.1, Dindigul District and set aside the same.

For Petitioner : Mr.K.Yasar Arafath

For Respondent : No appearance

**ORDER**

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This Criminal Revision has been filed seeking in order to set aside the order passed in CrI.M.P No.1503 of 2021 in CC No.96 of 2017, dated 24/06/2022 by the Judicial Magistrate No.1, Dindigul District.

2.The facts in brief:-

The petitioner is an accused before the trial court. He is facing the charge under section 138 of the Negotiable Instruments Act. Pending trial, he filed a petition in CrI.M.P No.1503 of 2021 in CC No.96 of 2017 under section 45 of the Indian Evidence Act seeking an order to send the disputed cheque for handwriting expert to find out the truth as to who made the above said signature and writing. The said petition came to be dismissed, on 24/06/2022. Against which, this revision has been filed.

3.Reading of the order shows that there was clear admission on the part of the revision petitioner with regard to the signature, that was found in the dispute cheque. Only with regard to the writing, it has been submitted by the revision petitioner it was not filled up by him.



4.It is his case to the effect that the above said disputed cheque was issued in favour of the father of the complainant, when he received Rs.2,20,000/- as loan amount. It is the further case of the complainant that after repayment of the above said loan amount, when demand was made by him to return the above said disputed cheque cheque, the father of the complainant was evading and by misusing one of the three cheques has been misused. This is purely a factual issue.

5.Whether there was any liability towards the complainant is a matter for consideration during trial. Since the signature has been admitted, the contention on the part of the revision petitioner that it must be sent for expert examination is out of place and cannot be entertained.

6.Apart from that, as pointed out by the trial court, there is a delay in making the above said request. The complaint was filed in 2017 and after 4 years, the present petition came to be filed, which was also taken into account by the trial court.



7. Apart from the delay, as mentioned earlier, when a clear admission that has been made by the petitioner, it is purely a delaying tactics, the trial court is right in dismissing the petition. I find no illegality in the order of the trial court.

8. In the result, this criminal revision is **dismissed**. Consequently, connected Miscellaneous Petition is closed.

30/11/2022

Index: Yes/No
Internet: Yes/No

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To,

The Judicial Magistrate No.1,
Dindigul District.



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G.ILANGOVAN, J

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