



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2022

CORAM:

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

Crl.R.C(MD)No.915 of 2021

&

Crl.M.P(MD)No.10954 of 2021

WEB COPY

V.Priyadharshini

...Petitioner/Petitioner/Accused

Vs.

P.S.Ambalavanan

... Respondent/Respondent/Complainant

Prayer: This Criminal Revision Petition filed under Section 397, r/w.401 of Cr.P.C. to call for the records pertaining in Crl.M.P No.489 of 2021 in C.C No.442 of 2014 filed by the respondent on the file of the learned Judicial Magistrate, Fast Track Court, Judicial Magistrate Level, Karur and set aside the order.

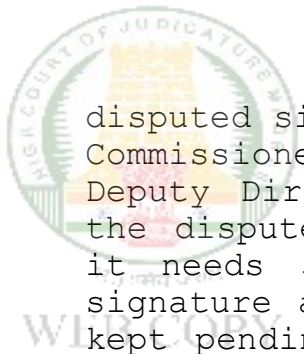
For Petitioner : Mr.L.Shaji Chellan
For Respondent : Mr.V.Sukumar

ORDER

This Criminal Revision Petition has been filed to set aside the impugned order in Crl.M.P No.489 of 2021 in C.C No.442 of 2014 filed by the respondent on the file of the learned Judicial Magistrate, Fast Track Court, Judicial Magistrate Level, Karur, thereby, dismissing the petition filed by the petitioner under Section 45 of Indian Evidence Act.

2.The petitioner is an accused and the respondent is the complainant. The respondent filed a complaint for the offence under Section 138 of Negotiable Instruments Act, alleging that the petitioner borrowed a sum of Rs.5,00,000/- as hand loan and in order to repay the same, she issued a cheque. The same was presented for collection and the same returned dishonoured for the reason "Other reasons exceeds arrangement". After passing statutory notice as contemplated under Section 138 of Negotiable Instruments Act, the respondent filed a complaint. The same has been taken cognizance in C.C.No. 442 of 2013.

3.While pending trial, the petitioner filed a petition under Section 45 of Indian Evidence Act, in Crl.M.P No.9777 of 2018, to send for the cheque for Handwriting Expert's opinion it was dismissed. Aggrieved by the same, the petitioner preferred revision before the Principal District Judge, Karur, in Crl.R.C.No.1 of 2018 and it was allowed by an Order dated 27.11.2018 and appointed an Advocate Commissioner, to send for the alleged cheque and other



disputed signatures for Handwriting Expert. Accordingly the Advocate Commissioner sent the disputed cheque for comparison. However, the Deputy Director of Regional Forensic Science Laboratory, returned the disputed cheque through the Advocate Commissioner stating that it needs 5 to 10 lines of admitted handwriting to compare the signature and handwriting in the disputed cheque. However, it was kept pending and as such the petitioner was constrained to file a petition to implement the order passed by the Revision Court in Crl.R.C.No.1 of 2018, dated 27.11.2018. However, the trial Court dismissed the application, for the reason that the petitioner has already admitted her signature in the disputed cheque and the trial Court arrives to the conclusion that there is no necessity to compare the signature, with her admitted signatures. Consequently, Handwriting Expert's opinion is not needed as prayed by the petitioner.

4.It is unfortunate to state that, when the Revision Court allowed the revision by setting aside the order passed by the trial Court and allowed the petition filed by the petitioner, for sending the disputed cheque for Handwriting Expert's opinion, again the trial Court cannot go back and concluded that there is no necessity at all to compare the signature with her admitted signatures. In fact, after appointment of Advocate Commissioner, the Deputy Director of Regional Forensic Science Laboratory, returned the disputed cheque for want of 5 to 10 lines of admitted handwriting to compare the handwriting in the disputed cheque.

5.Therefore, this Criminal Revision Petition is allowed and the the impugned order in Crl.M.P No.489 of 2021 in C.C No.442 of 2014 passed by the learned Judicial Magistrate, Fast Track Court, Judicial Magistrate Level, Karur on 16.10.2018, is set aside. The trial Court is directed to obtain the 5 to 10 lines admitted handwriting from the petitioner, to compare the signature in the disputed cheque and send the same to the Deputy Director of Regional Forensic Science Laboratory, forthwith. After receipt of the Handwriting Expert's opinion, the trial Court is directed to dispose the trial within three months, thereafter.

6.Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

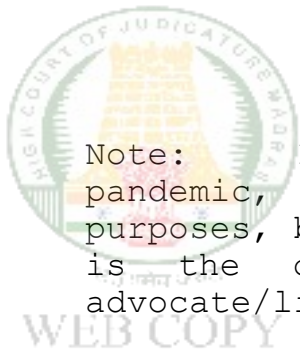
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Sub Assistant Registrar(CS)

PNM

<https://hcservices.ecourts.gov.in/hcservices/>



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 Judicial Magistrate,
Fast Track Court, Judicial Magistrate Level,
Karur.

COPY TO:-

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2C)

+1 CC to M/s.L.SHAJI CHELLAN, Advocate (SR-11074[F]
dated 10/03/2022)

+1 CC to M/s.V.SUKUMAR, Advocate (SR-11249[F] dated 10/03/2022)

ORDER IN

Cr1.R.C(MD)No.915 of 2021
& Cr1.O.P(MD)No.10954 of 2021
09.03.2022

SB(CO)
GC(23.03.2022) 3P 6C