



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C(MD)No.948 of 2021

and

CrI.M.P(MD)No.11408 of 2021

WEB COPY

D.Arockyasirumalar

... Petitioner/Sole Accused

Vs.

R.Duraipandian

... Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397(1) and Section 401 of the Code of Criminal Procedure, to call for the records relating to the impugned order in Cr.M.P.No.1626 of 2021 in C.C.No.51 of 2014, dated 16.11.2021 on the file of the Fast Track Court at Magisterial Level, Kovilpatti and set aside the same by allowing the above Criminal Revision Petition and to send the disputed document Ex.P.1 to any other document experts attached to Regional Forensic Laboratory for comparison of the same with the admitted signatures and to submit the report to that effect and directing the document expert to submit the report.

For Petitioner

: Mr.G.Mariappan

For Respondent

: Mr.B.Rajesh Saravanan

ORDER

This revision has been filed challenging the order passed in Cr.M.P.No.1626 of 2021 in C.C.No.51 of 2014, dated 16.11.2021 on the file of the Fast Track Court at Magisterial Level, Kovilpatti, thereby dismissing the petition filed under Section 45 of Cr.P.C to send the cheque for handwriting experts opinion to the Forensic Laboratory.

2.The petitioner is an accused. The respondent herein lodged a complaint for the offence punishable under Section 138 of the Negotiable Instruments Act, as against the petitioner.

3.The case of the respondent is that the petitioner borrowed a sum of Rs.5,00,000/- and in order to repay the same, she issued cheque on 20.06.2014 and the same was presented for collection. The said cheque was returned dishonoured for the reason that the 'funds insufficient'. Thereafter, the respondent caused statutory notice and the same was returned with an endorsement as 'left'. Thereafter, the respondent lodged the complaint and the same has been taken cognizance in C.C.No.51 of 2014. After receipt of summons, that too, after a period of one year, the petitioner filed a petition under



Section 45 of Cr.P.C for examination of the signature of the petitioner found in the cheque by comparing with the admitted signature of the petitioner.

4.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the entire materials available on record.

5.On a perusal of the petition filed by the petitioner revealed that after obtaining certified copy of the documents filed by the respondent, the petitioner found that the signature alleged in the cheque was not the signature of the petitioner and the same has been forged without the knowledge and consent of the petitioner. Without stating any other reason, except that the signature was found forged in the alleged cheque, the petitioner filed the petition under Section 45 of Cr.P.C. The respondent issued statutory notice as contemplated under Section 138 of the Negotiable Instruments Act, which was conveniently refused to receive by the petitioner and the same was returned with an endorsement as 'left'. It shows that the petitioner evaded the service of notice and while pending trial, the petitioner filed a petition under Section 45 of Cr.P.C in the year 2015 and the same was dismissed as pre-mature. Again after examination of P.W.1, that too, in the year 2021, she filed another petition to get expert opinion on Ex.P.1. That apart, the petitioner never stated anything about denial of the loan as alleged in the complaint and issuance of cheque. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

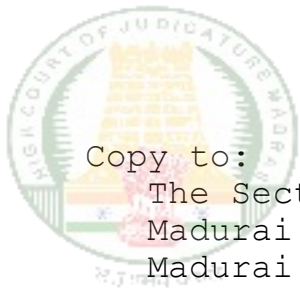
Note :

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 Judge, Fast Track Court at Magisterial Level,
Kovilpatti.

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



Copy to:
The Section Officer, Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

Cr1.R.C (MD) No. 948 of 2021
10.03.2022

MGJ(31.03.2022) 3P 4C