



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2022

CORAM:

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

Crl.R.C. (MD)No.977 of 2021

&

Crl.M.P. (MD)No.11956 of 2021

WEB COPY

S.M.Sheik Fareeth

... Petitioner/ Respondent/
Sole Accused

Vs

K.Chandrasekaran

... Respondent / Appellant/
Complainant

Prayer: This Criminal Revision Case filed under Section 397(2) r/w 401 Cr.P.C. to call for records and set aside the order dated 22.10.2021 passed in Crl.M.P. No. 2938 of 2021 in S.T.C. No. 1121 of 2017 by the learned Additional District Munsif cum Judicial Magistrate, Vendasandur, Dindigul District.

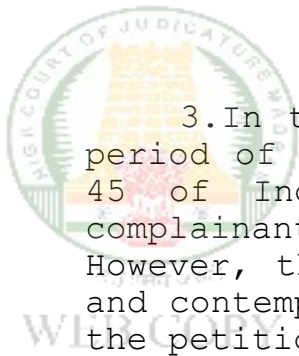
For Petitioner : Mr.V.R.Venkatesan

For Respondent : Mrs.S.Prabha

O R D E R

This Criminal Revision Case has been filed challenging the impugned order dated 22.10.2021, passed in Crl.M.P. No. 2938 of 2021 in S.T.C. No. 1121 of 2017 by the learned Additional District Munsif cum Judicial Magistrate, Vendasandur, Dindigul District, thereby, dismissed the petition filed under Section 45 of Indian Evidence Act.

2.The petitioner is an accused and the respondent lodged complaint against the petitioner, for the offence under Section 138 of Negotiable Instruments Act, alleging that the petitioner borrowed a sum of Rs.5,00,000/- (Rupees Five Lakhs) on 10.09.2017. In order to repay the same, he issued a cheque for a sum of Rs.5,00,000/- (Rupees Five Lakhs) and the same was presented for collection on 30.10.2017. Further it was returned as dishonoured for the reason 'funds insufficient'. Thereafter, the respondent caused statutory notice and the same was received by the petitioner on 14.11.2017. However, the petitioner failed to give reply and also failed to repay the amount and the respondent lodged the complaint. The complaint was taken cognizance in the year 2017 as STC No.1121 of 2017, on the file of the learned Additional District Munsif cum Judicial Magistrate, Vendasandur, Dindigul District



3.In this case, PW1 was examined on 31.03.2019. However, after period of 2 ½ years, the petitioner filed a petition under Section 45 of Indian Evidence Act, to compare the signature of the complainant found in Ex.P.1 with his contemporary signatures. However, the petitioner failed to attach the contemporary signature and contemporary documents, which contains the admitted signature of the petitioner.

4.It is clear that the petitioner filed the petition, only to drag on the proceedings, nothing else, since it is filed after four years from the date of taken cognizance. After receipt of statutory notice, he failed to issue reply. Therefore, the petitioner fails to make out the *prima facie* to sent for Ex.P.1 for Hand Writing Expert. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

5.In view of the above, this Criminal Revision Case is dismissed. However, the trial Court is directed to complete the trial, within six months, from the date of receipt of a copy of this order. It is made clear that any observations made by this Court, will not influence the Court below while dispose the complaint. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

/TRUE COPY/

/ /2022
Sub Assistant Registrar(CS)

PNM

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 Additional District Munsif cum Judicial Magistrate,
Vedasandur,
Dindigul District.

+1 CC to M/s.V.R.VENKATESAN, Advocate (SR-13073[F] dated 18/03/2022)

ORDER IN

Crl.R.C. (MD)No.977 of 2021

&

Crl.M.P. (MD)No.11956 of 2021

18.03.2022

MK/30.03.2022/2P/3C