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Crl.R.C.No.1050 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.1050 of 2023
and Crl.M.P.No.8376 of 2023

Arputham ... Petitioner
VS

T.Thilagam ... Respondent

Prayer : Criminal Revision Case filed under section 397 and 401 of Cr.P.C, to call for the records relating to the orders made in Crl.M.P.No.11603 of 2023 in C.C.No.1181 of 2021 vide order dated 25.05.2023 on the file of the learned Metropolitan Magistrate, Fast Track Court No.1, Egmore at Alikulam, Chennai and set aside the same and allow the petition.

For petitioner : Mr.S.T.Raja

ORDER

Challenging the order dated 25.05.2023 passed by the learned Metropolitan Magistrate, Fast Track Court No.1, Egmore at Allikulam, Chennai in Crl.M.P.No.11603 of 2023 in C.C.No.1181 of 2021, this Criminal Revision is filed by the petitioner.



2. The learned counsel for the petitioner submitted that the petitioner is the accused and the respondent is the complainant in C.C.No.1181 of 2021 on the file of the learned Metropolitan Magistrate, Fast Track Court No.1, Egmore at Alikulam, Chennai. Further, the learned counsel submitted that before the trial Court, the respondent-Complainant filed a complaint against the petitioner under Section 138 of N.I.Act for dishonour of cheque for a sum of Rs.1,50,000/-. The learned counsel contended that he owes only Rs.50,000/- to the complainant/respondent and hence given a cheque for Rs.50,000/-, whereas the complainant had defrauded him by inserting number 1 before Rs.50,000/- in the cheque which was issued by him. Therefore, the petitioner had filed a petition under Section 45 of the Indian Evidence Act in Crl.M.P.No.11603 of 2023 seeking to forward the cheque for getting expert opinion from the Forensic Department. It is the contention of the petitioner that in spite of the consent given by the respondent to send the cheque for expert opinion, the trial Court dismissed the said petition on 25.05.2023 on the ground that the Return Memo filed in this case did not disclose the reason for return and that no alteration was found in other portions of the disputed cheque. Hence, this Criminal Revision has been filed.



3. When the matter is taken up for hearing today, the learned counsel for the petitioner now alternatively prays before this Court to grant liberty to him to lead evidence before the trial Court to prove his defence.

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

5. On perusal of the records, the facts reveal that the petitioner is the accused and the respondent is the complainant in C.C.No.1181 of 2021 on the file of the learned Metropolitan Magistrate, Fast Track Court No.1, Egmore at Alikulam, Chennai. The respondent filed a complaint against the petitioner/Accused for dishonour of cheque, bearing No.376544 dated 10.12.2020 for a sum of Rs.1,50,000/- drawn on State Bank of India, Periamet Branch, Chennai. Before the trial Court, the petitioner/Accused took the defence that the respondent had inserted number 1 before Rs.50,000/-, in the cheque which he has given. To prove the said defence, the petitioner filed a petition in Crl.M.P.No.11603 of 2023 seeking to forward the disputed cheque to the Forensic Department. The trial Court held that the Forensic Department cannot make out whether any alteration has been made in the disputed cheque by inserting Number 1 before Rs. 50,000/-



or as to whether who has inserted Number 1. The opinion of the Forensic Department is not an admissible one in this case. Therefore, the trial Court has rightly dismissed the said petition and I find no infirmity in the order passed by the trial Court.

6. Accordingly, this Criminal Revision is dismissed. However, considering the submissions made by the learned counsel for the petitioner, liberty is given to the petitioner to lead required evidence to prove his defence before the trial Court. The petitioner has to lead evidence without getting any adjournment before the trial Court. The trial Court is directed to dispose of the case within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

22.06.2023

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To

The learned Metropolitan Magistrate, Fast Track Court No.1, Egmore at Alikulam, Chennai



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V.SIVAGNANAM, J.

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