



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.Nos.14983 and 14987 of 2023
and Crl.MP.Nos.9303 and 9306 of 2023

Crl.OP.No.14983 of 2023

Ms.Venila, A-44 years
W/o.Sivakumar

Petitioner/Petitioner/Accused

Vs.

P.S.Deivaraj, A-44 years
S/o.Subramani
Door No.9.2-5, CHB Colony West
Velur Road, Thiruchengodu
Namakkal District.

..Respondent/Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 08.06.2023 made in Crl.MP.No.3346 of 2022 in STC.No.342 of 2021, on the file of the Learned Judicial Magistrate Court (FTC) at Thiruchengode.

For Petitioner : Mr.S.Rajmakesh

For Respondent : Mr.S.Varanesh



Crl.OP.No.14987 of 2023

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Ms.Venila, A-44 years
D/o.Mr.Subramani

Petitioner/Petitioner/Accused

Vs.

P.S.Deivaraj, A-44 years
S/o.late Arthanari
Door No.60 CHB Colony West
Velur Road, Thiruchengodu Town & Taluk
Namakkal District.

..Respondent/Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 4.5.2023 made in Crl.MP.No.1984 of 2023 in STC.No.134 of 2020, on the file of the Learned Judicial Magistrate Court (FTC) at Thiruchengode.

For Petitioner : Mr.S.Rajmakesh

For Respondent : Mr.S.Varanesh

COMMON ORDER

The issue involved in both these petitions are common and hence, they are taken up together, heard and disposed of through this common order.



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2.The respondent in both the petitions had filed separate complaints u/s 138 of the Negotiable Instruments Act, 1881, against the petitioner. The petitioner in both the complaints has taken a stand that there was no transaction between the petitioner and the respondent in each complaint and the cheque was misused by the respondent and it does not contain the signature of the petitioner. In short, the petitioner is taking a defence that her signature has been forged and the cheque has been misused by the respective respondents in these petitions.

3.In the light of the above defence taken by the petitioner, the petitioner filed application u/s. 91 of Cr.PC., to send for some documents in order to get an expert opinion regarding the signature found in the cheque. The applications came to be dismissed by the Court below and aggrieved by the same, these petitions have been filed before this Court.

4.Heard Mr.S.Rajmakesh, learned counsel for the petitioner and Mr.S.Varanesh, learned counsel appearing on behalf of the respondent.

5.Insofar as CrI.OP.No.14987 of 2023, the petitioner wanted the Manager of State Bank of India, Tiruchengodu Branch, to produce the account



opening form along with the specimen signature of the petitioner. Insofar as CrI.OP.No.14983 of 2023, the petitioner wants the vakalat signed by the petitioner, the bail bond executed by the petitioner and other records pertaining to STC.No.134 of 2020 and to compare those signatures with the signature found in the cheque which is the subject matter in STC.No.342 of 2021.

6.This Court carefully went through the cross examination of PW.1. In the cross examination, the petitioner has projected a defence as if, she was carrying the cheques to the bank and at that point of time, some of the cheques fell down near the house belonging to the Complainant and those cheques have been misused by the Complainant by filling up the same and by forging the signature of the petitioner.

7.The Court below dismissed the application in STC.No.134 of 2020, on the ground that the specimen signature was given in the year 2010 and the cheque is of the year 2020 and hence, both these signatures cannot be compared since there is a long interval of 10 years between the specimen signature and the signature as found in the cheque given in the year 2020.



WEB COPY 8. In the second case in STC.No.342 of 2021, the Court below had dismissed the application on the ground that there is already a dispute between the parties and hence, the Court documents in the other case in STC.No.134 of 2020, cannot be relied upon to compare the signature in the cheque.

9. The reasoning that has been given by the Court below while dismissing the applications filed u/s 91 Cr.PC., does not suffer from any apparent illegality or infirmity. The petitioner wants to establish that the signature that is found in the cheque is not her signature. Admittedly, both the cheques pertain to the State Bank of India, Tiruchengodu Branch. In view of the same, the petitioner can always call the Bank Manager of State Bank of India, Tiruchengodu as a witness on her side and the Bank Manager can be asked to state in the witness box as to whether the Bank was satisfied with the signature found in the cheques when compared to the specimen signature maintained by the Bank. This will sufficiently take care of the attempt made by the petitioner to portray as if, the signature found in the cheque is not her signature. It is not necessary to send the cheques for expert opinion when the petitioner is only seeking for a comparison of the specimen signatures



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maintained in the Bank and the signature as found in the cheques and this clarity can be given even by the Bank.

10. In the light of the above discussion, this Court does not find any ground to interfere with the order passed by the Court below. However, in order to give one last opportunity to the petitioner, it is left open to the petitioner to file an appropriate application seeking for examining the Bank Manager of State Bank of India, Tiruchengodu Branch, by furnishing the specimen signature of the petitioner in the Bank. The Bank Manager can be asked whether the signature found in the cheques was found satisfactory with the specimen signature of the account holder in the account opening form.

11. The Court below shall complete the proceedings in STC No.134 of 2020 and STC No.342 of 2021, within a period of **two months** from the date of receipt of copy of the order.



12. These criminal original petitions are disposed of accordingly.

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Consequently, connected miscellaneous petitions are closed.

24.07.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

KP

To

Judicial Magistrate Court (FTC)

Thiruchengode.

N. ANAND VENKATESH, J.

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