



WEB COPY



CrI.R.C.No.627 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.03.2023

PRONOUNCED ON: 05.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CrI.R.C.No.627 of 2021
and
CrI.M.P.No.10403 of 2021

Dhana Vanthan	...	Petitioner
	/vs/	
Ravi Chettiyar	...	Respondent

PRAYER : Criminal Revision Case has been filed under Sections 397 & 401 of Code of Criminal Procedure to call for the records in C.C.No.149 of 2019 on the file of the Judicial Magistrate, Madurantagam and set aside the order passed on 05.03.2021 and allow the CrI.R.C. /2021 and send the document Ex.P2 cheque to the Handwriting Expert to verify the signature of the petitioner in Ex.P2.

For Petitioner	...	Mr.A.N.Rajan
For Respondent	...	Notice Served (No appearance)



CrI.R.C.No.627 of 2021

ORDER

WEB COPY Challenging the impugned order dated 05.03.2021 passed in C.C.No.149 of 2019 by the learned Judicial Magistrate, Madurantagam, the present criminal revision case has been filed.

2.The fact of the case is that the petitioner is an accused in C.C.No.149 of 2019 on the file of the Judicial Magistrate Court, Maduranthagam. The respondent filed a complaint against the petitioner/accused for an offence under Section 138 of N.I.Act. In this case, witnesses have been examined before the trial Court and documents have been marked. When the case is posted for defence side evidence, the petitioner/accused filed an application under Section 45 of the Evidence Act sought to forward the disputed cheque Ex.P2 for testing his signature to the forensic department to obtain an expert opinion as the petitioner disputed his signature in the cheque. The petition was dismissed by the trial Court on the ground that during the cross examination, the petitioner had not disputed his signature in the cheque Ex.P2, only for dragging the case, filed this application. Hence, it is under Challenge.



CrI.R.C.No.627 of 2021

3.The learned counsel for the petitioner/accused submitted that the respondent/complainant filed a complaint for the offence under Section 138 of N.I.Act upon the dishonour of cheque Ex.P2 for the amount of Rs.25,00,000/-. The petitioner disputed his signature in the cheque and he took the specific defence of forgery of signature, the complainant had not taken any steps to prove the cheque before the Court. Therefore, it has to be sent to the forensic department to obtain an expert opinion otherwise the petitioner will suffer serious loss and hardship and thus, pleaded to set aside the impugned order and to allow the criminal revision.

4.Notice was served to the respondent/complainant but he did not appear either in person or through his counsel.

5.I have considered the matter in the light of the submission made by the learned counsel for the petitioner.

6.On perusal of the records, the fact reveals that the respondent/complainant filed a complaint against the petitioner/accused for



CrI.R.C.No.627 of 2021

the offence under Section 138 of N.I.Act. The case has been taken on file by the trial Court in C.C.No.149 of 2019 and the witnesses were examined and documents Ex.P1 to P6 were marked. The case is posted for defence side evidence. At this stage, this petition is filed by the petitioner under Section 45 of the Evidence Act sought to forward the cheque Ex.P2 to the forensic department to obtain an expert opinion with regard to the signature of the drawer.

7.I have gone through the impugned order, the learned judge in para 5 detaily discussed the factual background of the case and noticed that while cross examining the witnesses, the accused had not cross examined with regard to the signature in the cheque Ex.P2. Further, the petitioner/accused had not cross examined the complainant in this aspect while marking the document Ex.P2 cheque. At the earlier stage of cross examination, the petitioner had not disputed the signature in the cheque Ex.P2, only after the case was posted for defence side evidence, he filed the application for forwarding the cheque to the forensic department to obtain expert opinion. Further, the trial Court itself can compare the



CrI.R.C.No.627 of 2021

signature as per Section 73 of the Indian Evidence Act. When the Court feels to get expert opinion, it may forward it to the forensic department and the trial Court found no bonafide on the part of the petitioner in filing this application after completion of the case. Further, the petitioner has not disputed the cheque maintained in his account. Under these circumstances, he had not offered any acceptable reason how the cheque went to the hands of the complainant. Further, the trial Court in the impugned order in para 7 discussed the nature of the case and the signature of the petitioner/accused in other admitted documents.

8. Under these circumstance, the finding of the trial Court that forwarding the disputed cheque to the forensic department for getting expert opinion is unwarranted. I find no reason to interfere with the finding of the trial Court and no merit in the criminal revision case. Accordingly, the criminal revision case is dismissed. Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet : Yes/No
sms

05.04.2023



CrI.R.C.No.627 of 2021

To
WEB COPY

The Judicial Magistrate, Madurantagam



WEB COPY



Crl.R.C.No.627 of 2021

V.SIVAGNANAM ,J.

sms

Pre-delivery order made in
Crl.R.C.No.627 of 2021
and
Crl.M.P.No.10403 of 2021

05.04.2023