



Crl.R.C.No.245 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.245 of 2023

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Crl.M.P.Nos.1986 & 1987 of 2023

R.Sakthi	...	Petitioner
	/vs/	
V.Kannaki	...	Respondent

PRAYER : Criminal Revision Case has been filed under Section 397 r/w 401 Cr.P.C. to call for the records and set aside the order passed in Crl.M.P.No.2591 of 2019 in S.T.C.No.59 of 2017 dated 08.08.2022 by the learned Judicial Magistrate, Fast Track Court, Hosur.

For Petitioner ... Mr.V.Vijayakumar

ORDER

Challenging the impugned order dated 08.08.2022 passed in Crl.M.P.No.2591 of 2019 in S.T.C.No.59 of 2017 by the learned Judicial Magistrate, Fast Track Court, Hosur.



2.The learned counsel for the petitioner contended that the respondent/complainant filed a complaint against the petitioner/accused for an offence under section 138 of the Negotiable Instruments Act for dishonour of cheque bearing cheque No.381160 drawn on ICICI Bank, Hosur Branch for a sum of Rs.6,90,000/-. The petitioner/accused disputed the handwriting and signature in the cheque Ex.P1. To obstruct the claim of the respondent/complainant and to prove his signature, the petitioner/accused filed an application for forwarding the cheque Ex.P1 for handwriting expert's opinion. The trial Court, without considering the defence of the petitioner/accused, dismissed the petition.

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

4.On perusal of the records, it is seen that the petitioner is the accused and the respondent is the complainant and he has filed a complaint for dishonour of cheque bearing No.381160 drawn on ICICI Bank for a sum of Rs.6,90,000/-. Initially, the burden of proving the cheque issued by



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the accused is in his handwriting, is upon the complainant. Apart from this, there are other evidence to prove or disprove that the cheque issued by the accused by examining the bank officials of the bank of the accused. Further, on perusal of the impugned order para – 7, the learned judge observed based upon the records, the accused admitted that he had given the alleged cheque to the complainant and further, on the request of the accused, the matter has been referred to National Lok Adalat for settlement. Under these circumstances, the trial Court found no bona fide on the part of the petitioner/accused for forwarding the cheque for getting opinion of handwriting expert. Even an expert opinion being a opinion, the signature of the cheque has to be proved by substantial evidence. Therefore, the opinion of handwriting expert is not needed. In this case, I find no merit and no infirmity in the order passed by the trial Court. Accordingly, the criminal revision case is dismissed. Consequently, connected miscellaneous petitions are closed.

Index : Yes/No
Internet : Yes/No
sms

13.02.2023

V.SIVAGNANAM,J.



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To

The learned Judicial Magistrate,
Fast Track Court, Hosur.

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