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CrI.R.C.No.417 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.No.417 of 2023

and

CrI.M.P.No.3167 of 2023

Jaganathan

...Petitioner/Petitioner

Vs.

Kumar

... Respondent/Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of the Cr.P.C., to set aside the order dated 27.01.2023 made in CrI.M.P.No.176 of 2022 in CC.No.6 of 2022 on the file of the Judicial Magistrate, Fast Track Court (Magisterial level), Tiruvannamalai.

For Petitioner : Mr.C.Munusamy

For Respondent : Mr.R.Karthikeyan



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ORDER

The revision has been filed challenging the dismissal of the petitioner's application, seeking for an expert opinion to ascertain the date of the ink in the cheque said to have been issued by the petitioner.

2. The trial Court had dismissed the said petition on the ground that if the petitioner had issued a blank cheque to a third party and the respondent had misused the said cheque, it is open to the petitioner to establish that there was no legally enforceable debt and therefore, there is no necessity to send the cheque for an expert opinion as sought for by the petitioner.

3. The learned counsel for the petitioner, who reiterated the averments made in his petition, stated that the cheque was issued in the year 2018 to one Mr.Sivananthan and the complainant, in collusion with said Mr.Sivananthan, had misused the cheque and had made it appear that the cheque was issued to the complainant for a sum of Rs.5,00,000/- (Rupees Five Lakhs only); and that if it is established that the cheque was issued to Mr.Sivananthan in the year 2018, the debt would be barred by limitation and



therefore, the petition under Section 45 of the Indian Evidence Act ought to have been allowed by the Court.

4. The learned counsel for the respondent *per contra* submitted that the prayer in the petition filed under Section 45 of the Indian Evidence Act is not maintainable since it is well established that there is no mechanism or scientific method to find out the age of the writing of the ink. He relied upon the Judgment of this Court in ***C.R.P. (MD) No. 601 of 2021 and C.M.P (MD) No.3344 of 2021*** dated 07.10.2021 in support of his submission.

5. According to the petitioner, he had issued a signed cheque to one Mr.Sivananthan. The execution of the cheque is therefore admitted. If it is the petitioner's case that the said Mr.Sivananthan had misused the cheque and had handed over the cheque to the complainant to file this false complaint, it is open to him to establish the same before the trial Court in the manner known to law.



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6. Further, as rightly contended by the learned counsel for the respondent and as held by this Court, there is no mechanism or scientific method to find out the age of the writing of the ink. Therefore, without prejudice to the right of the petitioner to raise all his contentions before the trial Court, this Court is of the view that the order passed by the trial Court is in accordance with the law and that the revision has no merits. Hence the revision is liable to be dismissed.

7. With the above observation, this Criminal Revision Case stands dismissed. Consequently, the connected miscellaneous petition is closed.

13.11.2024

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To

1. The Judicial Magistrate,
Fast Track Court (Magisterial level),
Tiruvannamalai.

2. The Public Prosecutor,
Madras High Court.

SUNDER MOHAN., J.



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