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CrI.R.C.No.1331 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CrI.R.C.No.1331 of 2024
and CrI.M.P.No.11411 of 2024

A.Syed Ibrahim

... Petitioner

Vs.

K.R.Kannan

... Respondent

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., praying to set aside the order dated 01.03.2024 made in C.M.P.No.28 of 2024 in S.T.C.No.222 of 2022 on the file of Judicial Magistrate (Fast Track Court No.II), Erode by allowing this petition.

For Petitioner : Mr.M.Guruprasad

ORDER

This petition has been filed seeking to set aside the order dated 01.03.2024 made in C.M.P.No.28 of 2024 in S.T.C.No.222 of 2022 on the file of Judicial Magistrate (Fast Track Court No.II), Erode.



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2.The petitioner, who is the accused in S.T.C.No.222 of 2022 filed by the respondent under Section 138 of the Negotiable Instruments Act, had filed a petition under Section 45 of the Indian Evidence Act in C.M.P.No.28 of 2024 seeking to forward the cheques to handwriting expert, since the respondent/complainant during cross examination admits that the name of the complainant in the cheques were filled up by the accused in his presence.

3.The case of the petitioner is that the disputed cheque was given to one Prabhakaran as a security for a loan transaction in the year 2015. He repaid the loan. But the said Prabhakaran failed to return back the cheques even after the repayment of the loan. The respondent using those cheques filed a false case against the petitioner. Further the respondent though denied that he was doing money lending business at high interest, he admits that he filed 24 cases against the borrowers before the same Court. In view of the same, the petitioner had probalised his defence. Hence for that purpose the cheques have to be forwarded to handwriting expert, but the trial Court dismissed the said



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application. The petitioner also referred to the evidence of PW1 in cross examination conducted on 22.11.2023, wherein in paragraph 8, this fact has been recorded.

4.It is seen that respondent/complainant denied that cheque was given to Prabhakaran and the same was filled up by him. He gives an explanation that the name of the respondent was filled up by the petitioner in his house by using the pen given by him. Thus he attempts to give an explanation. On this evidence there is no necessity to forward the cheques for handwriting expert. The petitioner can very well work out his defence by further cross examination or by other witnesses.

5.In view of the same, this Court finds no reason to interfere with the order passed by the trial Court. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

13.08.2024

Index: Yes/No

Speaking order/Non-speaking order

Neutral citation: Yes/No

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M.NIRMAL KUMAR, J.

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To

1.The Judicial Magistrate
(Fast Track Court No.II), Erode.

2.The Public Prosecutor,
High Court, Madras.

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and

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