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Crl.R.C.No.967 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.R.C.No.967 of 2024
and Crl.M.P.No.8124 of 2024**

M.Radhakrishnan

... Petitioner

Vs.

V.Jayakumar

... Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w. 401 of the code of Criminal Procedure, to set aside the order dated 01.03.2024 passed in Crl.M.P.No.01 of 2024 in S.T.C.No.103 of 2022, on the file of the Judicial Magistrate, Fast Track Court, Hosur, Krishnagiri.

For Petitioner : Mr.V.Sundarraman

For Respondent : No appearance



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ORDER

The Criminal Revision Case is filed against the impugned order dated 01.03.2024 passed in Crl.M.P.No.01 of 2024 in S.T.C.No.103 of 2022 by the learned Judicial Magistrate, Fast Track Court, Hosur, Krishnagiri.

2. The case of the petitioner is that the petitioner is the accused in the complaint filed by the respondent under Section 138 r/w. 142 of Negotiable Instrument Act, which was taken on file in S.T.C.No.103 of 2022 by the learned Judicial Magistrate, Fast Track Court, Hosur, Krishnagiri. During the trial, the petitioner has filed a petition in Crl.M.P.No.01 of 2024 under Section 45 of Indian Evidence Act to send the disputed signature of the petitioner contained in the cheque along with the admitted signature contained in the vehicle RC book of the petitioner to the Handwriting Expert for comparison, however, the same was dismissed. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioner submits that the petitioner is disputing the signature contained in the cheque and when the petitioner disputed the signature contained in the cheque, it is the duty cast on the trial Court to send the signature contained in the cheque to the Handwriting Expert for comparison with the admitted signature of the petitioner, however, the same was refused on the ground that the signature of the petitioner contained in the cheque and the admitted signature of the petitioner were similar, without providing sufficient opportunity to the petitioner to put forth his case. Hence, he prays for appropriate orders.

4. Heard the learned counsel appearing for the petitioner. Though notice was served to the respondent, there is no representation for the respondent.

5. It is seen from the records that the respondent has filed a complaint against the petitioner under Section 138 r/w. 142 of Negotiable



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Instruments Act, on the ground that the petitioner had to pay the chit amount of Rs.7,01,925/- to the respondent, for which, he has issued the cheques for the said amount and when the same were presented before the Bank, they were returned with an endorsement " funds insufficient", and it was taken on file in S.T.C.No.103 of 2022, in which, the petitioner has filed a petition in Crl.M.P.No.01 of 2024 under Section 45 of Indian Evidence Act to send the disputed signature of the petitioner contained in the cheque along with the admitted signature contained in the vehicle RC book of the petitioner which was produced by the petitioner before the trial Court to the Handwriting Expert for comparison, however, it was dismissed. An opportunity must be given to the person to prove his innocence by comparing his signature on the disputed cheque with his admitted signature in the document produced by him which was registered prior to the date of the cheque. Hence, in order to give one opportunity to the petitioner, this Court is inclined to set aside the impugned order dated 01.03.2024 passed in Crl.M.P.No.01 of 2024 in S.T.C.No.103 of 2022 by the learned Judicial Magistrate, Fast Track Court, Hosur, Krishnagiri, and accordingly, it is set aside. The trial Court is directed



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to send the signature of the petitioner contained in the cheque along with the admitted signature of the petitioner contained in the registered document produced by him which was registered prior to the date of cheque to the Handwriting Expert for comparison and on receipt of the report from the Handwriting Expert, the trial Court is directed to decide the matter on merits and in accordance with law.

6. Accordingly, this Criminal Revision Case is allowed. Connected miscellaneous petition is closed.

01.07.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

The Judicial Magistrate, Fast Track Court, Hosur, Krishnagiri.



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M.DHANDAPANI, J.

ssb

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