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Crl.R.C.Nos.1328 & 1329 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.R.C.Nos.1328 and 1329 of 2024

and

Crl.M.P.Nos.11394 and 11395 of 2024

B.Rajendra Kumar Jain

... Petitioner in both Crl.R.Cs.

Vs.

Suresh Bafna

Proprietor of M/s.Sri Chandraprabhu Agency,

Rep. by A.Ramesh,

No.22, Mulla Sahib Street, Sowcarpet,

Chennai – 600 079.

... Respondent in

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M/s.Mardia Sons Holding Pvt. Ltd.,

Rep by Mr.A.Ramesh,

Authorised Agent,

No.5, Damodharan Street, Kilpauk,

Chennai – 600 010.

... Respondent in

Crl.R.C.No.1329 of 2024

Common Prayer: Criminal Revision Cases filed under Sections 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita r/w 401 of Cr.P.C. praying to set



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aside the order dated 12.07.2024 made in Crl.M.P.Nos.4789 & 4790 of 2023 in C.C.Nos.2101 & 2135 of 2016, respectively, on the file of the Metropolitan Magistrate, Fast Track IV, George Town, Chennai and to direct the learned Magistrate to any other expert central government agency with regard to the forging of the petitioner/accused signature in Exs.P2, P3 and P5 and submit a report before the learned Magistrate.

For Petitioner : Mr.M.Praveen Kumar
in both Crl.R.Cs.

COMMON ORDER

These petitions have been filed seeking to set aside the order dated 12.07.2024 made in Crl.M.P.Nos.4789 & 4790 of 2023 in C.C.Nos.2101 & 2135 of 2016, respectively, on the file of the Metropolitan Magistrate, Fast Track IV, George Town, Chennai and to direct the learned Magistrate to any other expert central government agency with regard to the forging of the petitioner/accused signature in Exs.P2, P3 and P5 and submit a report before the learned Magistrate.

2.The petitioner/accused in C.C.Nos.2101 and 2135 of 2016 had filed Crl.M.P.Nos.4789 and 4790 of 2023 under Section 45 of the Indian



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Evidence Act to forward the cheques bearing Nos.950482 dated 02.06.2016 and 950483 dated 07.06.2016 drawn on Indian Overseas Bank, Vallur Branch.

3.The contention of the learned counsel for petitioner is that the petitioner availed Mortgage Loan from the respondent, who is the Proprietor of M/s.Mansi Finance, in the year 2003. Thereafter, the mortgage had been satisfied. According to the petitioner, there was some dispute and arbitration proceedings initiated. In the arbitration proceedings, three pro-notes dated 18.07.2013, 19.07.2013 and 31.01.2014 and Memorandum of Understanding dated 31.01.2014 were marked as exhibits. In the arbitration proceedings, petitioner disputed the signature found in the pro-note and MOU. The Arbitrator forwarded the forged documents to FBIS Lab, Vadapalani. The petitioner sent the said document to Truth Lab, Adayar. Both reports were contradictory to each other and the same was questioned in the arbitration proceedings. In the meanwhile, the arbitration proceedings terminated on the



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ground of unilateral arbitration under Section 29(A) of the Arbitration Act,
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which has been struck down. In view of the same, as on date, the arbitration proceedings is terminated and no petition to revive the appointment of fresh Arbitrator initiated by the respondent. In the meanwhile, the Power of Attorney, Suresh Bafna, Proprietor of M/s.Chandraprabhu Agency filed his proof affidavit and marked documents. In earlier to filing of the case, notice issued by the petitioner and the respondent denied the issuance of cheque in the year 2016 by sending reply which has been marked as Document No.9. This being so, the petitioner marked Ex.P2 series/three promissory notes, Ex.P3/MOU and Ex.P5/Cheque. Pro-note and MOU finds allegation in the complaint without full details, but marked as Exhibits along with proof affidavit. He further submitted that these documents found to be forged and filing a forged document and proceeding a case is not proper. For that reason he filed a petitions under Section 45 of Indian Evidence Act.



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4.It is seen that in this case the petitioner has not cross examined PW1/complainant. Unless these documents are confronted with PW1, the petitioner is not entitled for forwarding the document to handwriting expert. Depending upon the evidence of PW1, the trial Court to consider the same, now at this stage presenting the petition is pre-mature. The petitioner can review his prayer on cross examining PW1 confronting the documents and thereafter the same can be forwarded to the handwriting expert, if required.

5.In view of the same, this Court is not inclined to entertain these petitions. Accordingly, these Criminal Revision Cases are dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

13.08.2024

Index: Yes/No

Internet: 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 Metropolitan Magistrate,
Fast Track IV, George Town,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

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and

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