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Crl.RC.No.757 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.04.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.RC.No.757 of 2024

and

Crl.MP.No.7078 of 2024

1. Sri Krishna Gold House,
Rep. by Power of Attorney K.Jayalakshmi,
No.19-A, E.V.R Road, Arumbakkam,
Chennai – 600 007.
2. K.Jayalakshmi
...Petitioners

Vs.

Sripriya Jackson

...Respondent

Criminal Revision Case filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the order dated 03.02.2023 made in Crl.M.P.No.713 of 2022 in S.T.C.No.64 of 2016 on the file of the Judicial Magistrate Court, Fast Track Court (Magistrate Level), Poonamallee.

For Petitioners : M/s.D.Lakshmipathy

ORDER

This Criminal Revision has been filed seeking to set aside the order dated 03.02.2023 made in Crl.M.P.No.713 of 2022 in S.T.C.No.64 of 2016



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on the file of the Judicial Magistrate Court, Fast Track Court, Poonamallee.

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2. The case of the petitioners is that, alleging that, the 2nd petitioner, Proprietor of the 1st respondent borrowed gold weighing about 640 gms. worth about Rs.15,75,000/- from the respondent/complainant and had returned back only gold weighing 140 gms. out of 640 gms. and for discharge of the remaining liability, the 2nd petitioner issued a cheque bearing No.002062 dated 07.09.2015 for a sum of 11,00,000/-. When the above said cheque was presented by the respondent for collection, the same returned with an endorsement 'Funds insufficient'. Thereby, the respondent issued a legal notice dated 12.11.2015, despite receiving which, the petitioners failed to discharge the above said liability. Therefore, the petitioner filed a complaint under Section 138 of Cr.P.C. in S.T.C.No.64 of 2016, pending which, the petitioners filed a petition in Crl.MP.No.713 of 2022, seeking to send the signature contained in the agreement marked as Ex.D1 for Expert opinion However, the trial court, vide impugned order dated 03.02.2023 had mechanically dismissed the said petition. Aggrieved by the same, the petitioners have come up with this Revision.



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3. Learned counsel for the petitioner submitted that, the entire allegation made against the petitioners by the respondent in the complaint in STC.No.64 of 2016 is false. Further during the trial, the signature in the document was shown to the respondent, however, the respondent had denied her signature in the said document and only, if the said document was sent for Expert opinion, the petitioners will be able to establish the allegations made in the above said complaint. However, the trial court had mechanically dismissed the Section 45 application filed by the petitioner which is not sustainable.

4. Heard learned counsel for the petitioners and perused the material documents placed on record.

5. A perusal of the materials available on record, particularly the signature in the disputed cheque as also the signature in the agreement reveals that the core dispute pertains to the denial of the signature in the cheque alleged to have been issued by the respondent. It is the case of the petitioner that only an expert opinion can put at rest the dispute. However, it is to be pointed out that even on a bare perusal of the signature in the



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cheque and the signature in the agreement shows that there is a sea of difference between the two signatures and there needs no special expert opinion to tell that both the signatures are not one and the same. Such being the case, on the aforesaid reasoning the court below had declined to send the cheque for expert opinion, which finding cannot be said to be erroneous or perverse. There is no necessity to the send the the cheque, which is marked as Ex.D-1 for expert opinion. Hence, this Court is not inclined to interfere with the order impugned in this revision.

6. For the reasons aforesaid, this Criminal revision fails and the same is dismissed. Consequently, the connected Miscellaneous petition is closed.

30.04.2024

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

The Judicial Magistrate Court, Fast Track Court (Magistrate Level),
Poonamallee.

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M.DHANDAPANI, J.

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