



Crl.R.C.No.1890 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1890 of 2024

and

Crl.RC.No.15487 of 2024

G.Ravikumar

... Petitioner

Vs.

T.Deenadayalan

... Respondent

PRAYER: Criminal Revision Case filed under Section 438 & 442 of BNSS to call for the records in Crl.M.P.No.54400 of 2024 in S.T.C.No.7920 of 2024 on the file of the learned Metropolitan Magistrate Fast Track Court II, Allikulam and set aside the same.

For Petitioner : Mr.V.S.Senthilkumar

For Respondent : Mr.M.Sathyamoorthy



ORDER

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The revision petition challenges the dismissal of the petitioner's application to send the cheque to be examined by an expert.

2.The petitioner is facing trial before the learned Metropolitan Magistrate Fast Track Court II, Allikulam for the offence under Section 138 of the Negotiable Instruments Act. According to the petitioner, he had not signed the cheque and therefore, it is imperative that the cheque be sent to the Expert to ascertain if the signature belongs to him. The respondent opposed the said petition stating that it is only to delay the proceedings. The learned Magistrate dismissed the said petition on the ground that the petitioner had not taken any steps to establish that the cheque was stolen and therefore, the reason for sending the cheque for expert opinion cannot be accepted.

3.The learned counsel for the petitioner would submit that the cheque was stolen and the signature contained in the cheque is not his signature; that the complaint was filed only in the year 2024 and therefore, his right to



defend the case cannot be construed as one to prolong the trial and hence, prayed for setting aside the order.

4.The learned counsel for the respondent reiterated the submissions made by the respondent before the Trial Court and submitted that since no action has been taken for establishing that the cheque was stolen, the impugned order does not suffer from any infirmity and hence, prayed for dismissal of the revision.

5.Admittedly, the case was instituted in the year 2024. The burden is on the petitioner to rebut the statutory presumption and to establish that he had not signed the cheque. Therefore, this Court is of the view that no prejudice would be caused to the respondent if the cheque is sent to an Expert for an opinion as to whether the Cheque was signed by the petitioner. However, the said process of obtaining the expert opinion shall be completed within a period of six weeks from the date of receipt of a copy of this order.



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WEB COPY 6. With the above observations, the Criminal Revision stands allowed.

Consequently, connected miscellaneous petition is closed.

27.11.2024

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

cse

To

The Metropolitan Magistrate
Fast Track Court II, Allikulam.



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SUNDER MOHAN, J.

cse

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