



Crl.R.C.No.2215 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2215 of 2023 and
Crl.M.P.No.19914 of 2023

P.Thangaraj

... Petitioner

Vs.

K.Shankar

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order dated 17.10.2023 passed in Crl.M.P.No.1114 of 2023 in S.T.C.No.16 of 2022 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level, Coonoor and set aside the same and consequently allow the petitioner to compare the written words in the Ex.P1 with petitioner's handwriting by way of getting opinion from the handwritten experts to prove the handwriting of the petitioner by the Forensic Science Laboratory, Chennai.

For Petitioner : Mr.R.Bharathkumar

ORDER

The petitioner/accused in S.T.C.No.16 of 2022 has filed a petition under Section 45 r/w 73 of the Indian Evidence Act in Crl.M.P.No.1114 of 2023 in S.T.C.No.16 of 2022 before the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Coonoor (trial Court) to send the cheque for handwriting expert for opinion. The trial Court, by impugned order, dated 17.10.2023 dismissed the same, against which the present Criminal Revision Case has been



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2.The learned counsel for the petitioner submitted that the trial Court ought to have allowed the petition to ascertain whether the words filled up in the cheque (Ex.P1) are matching with the handwriting of the petitioner in order to effectively determine the case. He further submitted that the respondent was arrested by the Upper Coonoor Police in a criminal case, the petitioner as a Reporter covered the said news and published in the newspaper. As a counterblast, the respondent lodged the false complaint in S.T.C.No.16 of 2022. The observation of the trial Court that there is no mechanism to ascertain the age of the ink and period of handwriting is not correct. The right of the petitioner/accused to get expert opinion to prove his case is enshrined under Article 21 of the Constitution of India. The trial Court failed to take into consideration that in the year 2015, the petitioner lost his cheque (Ex.P1) and reported the same to his banker Karur Vysya Bank which fact is confirmed by DW2, the Bank Manager in his evidence. This being so, how the respondent lodged the complaint as though the petitioner handed over the cheque of the year 2020. Further, the petitioner also cross examined the respondent in detail to putforth the above said facts. The respondent's contention that the cheque (Ex.P1) was filled up, signed and handed over by the petitioner would be



demolished only if the cheque (Ex.P1) is forwarded to the handwriting expert and the same would cut the root of the case. These facts have not been considered by the trial Court. Hence, he filed the present Criminal Revision Case to set aside the impugned order.

3.Considering the submissions and on perusal of the materials, it is seen that the petitioner took contradictory stand with regard to possession of the cheque with the respondent. His first stand is that he is having office at Jain Store building, since the petitioner was also an Astrologer, the respondent used to approach him to get advice for his son's marriage, at that time, the respondent took away the cheque (Ex.P1), got it filled up and filed the complaint. The petitioner examined himself as DW1 wherein he deposed that he employed a lady in his office and whenever he was outstation, he used to leave signed cheque with that lady employee for urgent expense. On one such occasion, when he came back and asked for the signed cheque, the petitioner was informed that the cheque has been misplaced, at that point of time, the respondent came to his office. Though there was a suspicion against the respondent, he had not taken it forward then. Now, it has come to know that this missing cheque has been misused. In this case, the petitioner neither denies the cheque nor the signature found in it. The other stand is that the respondent



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has got no source of income to give loan to the petitioner. Further, the respondent has been filing cheque bounce cases either in his name or in the name of his wife and daughter in a deceitful manner.

4.On the submissions of the learned counsel for the petitioner and on perusal of the materials filed along with this criminal revision, it is seen that the trial Court passed a detailed order with reasons, referring to the evidence of the witnesses. The explanation now given by the petitioner can be considered at the time of judgment. On the facts and circumstances of the case, it is not required for the cheque to be forwarded for handwriting opinion.

5.In the result, this Criminal Revision Case stands dismissed confirming the impugned order, dated 17.10.2023 in Crl.M.P.No.1114 of 2023 in S.T.C.No.16 of 2022 passed by the trial Court. Consequently, the connected Miscellaneous Petition is closed.

03.01.2024

Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

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To
The Judicial Magistrate,
Fast Track Court at Magisterial Level,
Coonoor.



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M.NIRMAL KUMAR., J.

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