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Crl.RC.No.91 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.91 of 2025 and

Crl.M.P.No.1484 of 2025

Asokan

... Petitioner

Vs.

Jayakumar

... Respondent

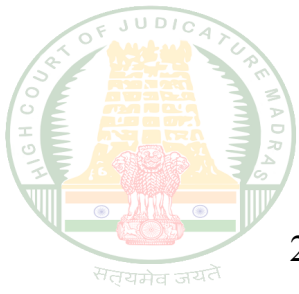
Prayer: Criminal Revision Case filed under Section 438 and 442 of B.N.S.S. to set aside the order in Crl.M.P.No.12356 of 2024 dated 16.12.2024 by the Judicial Magistrate-III, Cuddalore.

For Petitioner : M/s.V.Aashika
for Mr.G.R.Hari

For Respondent : Mr.G.Jaisivaramaraj

ORDER

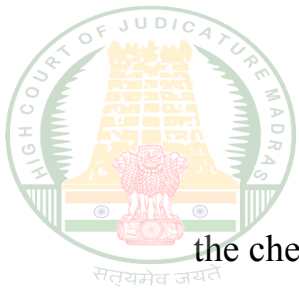
This Criminal Revision Case has been filed by the petitioner to set aside the order passed in Crl.M.P.No.12356 of 2024 dated 16.12.2024 by the Judicial Magistrate-III, Cuddalore.



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2. The case of the petitioner is that the respondent filed a complaint against the petitioner in S.T.C. No.155 of 2018 before the Judicial Magistrate-III, Cuddalore, under Section 138 of the Negotiable Instruments Act. The petitioner admitted the signature found in Ex.P.1/cheque, but the respondent/complainant had filed a pro-note/Ex.P6 before the Court to substantiate his claim, as if, it was was executed by the petitioner. Therefore, pending complaint, the petitioner filed a petition before the Magistrate in Crl.M.P.No.12356 of 2024 invoking Section 45 read with 73 of Indian Evidence Act for sending the pro-note which were marked as Ex.P.6 to compare the signature with the admitted signature found in Ex.P.1/cheque. But, the same was dismissed by the learned Magistrate by order dated 16.12.2024. Aggrieved by the same, the petitioner/accused has filed the present revision.

3. A reading of the entire materials shows that the petitioner has deviated the scope and object of the complaint under Section 138 of Negotiable Instruments Act. It is not the case of the petitioner that the signature found in

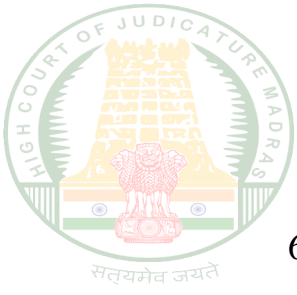


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the cheque is not that of his signature. The petitioner has admitted the signature found in the cheque/Ex.P1. The complaint was filed in the year 2018. During cross examination, he has put certain suggestions regarding the pro-note/Ex.P.6 and after marking of the same, the petitioner has filed the petition invoking Section Section 45 read with 73 of Indian Evidence Act.

4. The petitioner has not denied the signature found in the cheque/Ex.P.1 and the execution of the cheque/Ex.P.1 has also not been denied. Therefore, sending of the promissory note/Ex.P.6 to the Forensic Department is not necessary, which is out of the scope of Section 138 of the Negotiable Instruments Act.

5. However, since the petitioner filed the petition in Crl.M.P.No.12356 of 2024 invoking Section 73 of the Indian Evidence Act, the Court itself can exercise its power to compare the signature/writings at any stage of trial before pronouncing of judgement.



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6. Therefore, the Magistrate is directed to exercise its power under

Section 73 of the Indian Evidence Act, if necessary, to compare the disputed signature with the admitted signature with contemporary documents, and proceed with the case in accordance with law.

7. With the above observations, this Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is closed.

02.04.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

The Judicial Magistrate-III,
Cuddalore.

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P.VELMURUGAN. J.

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