



Crl.R.C.No.287 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.287 of 2025

and

Crl.M.P.No.2599 of 2025

M.Rajkumar

... Petitioner

..VS..

S.L.Sekar

... Respondent

Criminal Revision Case filed under Sections 438 read with 442 of BNSS, to call for the records in Crl.M.P.No.6213 of 2024 in S.T.C.No.270 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court-1, Erode and set aside the order dated 18.12.2024.

For Petitioner : Mr.D.Senthur Kugan

ORDER

This Criminal Revision Petition has been filed to set aside the order dated 18.12.2024 passed in Crl.M.P.No.6213 of 2024 in S.T.C.No.270 of 2018 on the file of the learned Judicial Magistrate, Fast



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Track Court-1, Erode.

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2. The petitioner is an accused, facing trial in S.T.C.No.270 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court-1, Erode for the offence under Section 138 of Negotiable Instruments Act, 1881. After completion of both side evidence, the petitioner filed a petition by invoking Section 45 of Indian Evidence Act (Section 39 of BSA of 2023) in Crl.M.P.No.6213 of 2024, praying to send the Cheque (Ex.P1) and acknowledgment (Ex.P5) for expert opinion to prove his defence and also filed a petition by invoking Section 311 Cr.P.C in Crl.M.P.No.6212 of 2024 to re-call and re-open the petitioner's side evidence. After detailed appreciation of entire materials on record, the learned Magistrate, by common order dated 18.12.2024 dismissed the Crl.M.Ps. and as against the dismissal order passed in Crl.M.P.No.6213 of 2024, the present petition has been filed by the petitioner/accused.

3. Heard the learned counsel for the petitioner on the submissions and perused the materials available on record.



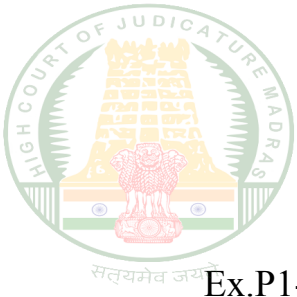
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4. It is the case of the respondent-complainant that the petitioner-accused had issued the cheque to discharge his liability and when the said cheque was presented for collection, the same was dishonoured for the reason "Funds Insufficient". Thus, the respondent issued a statutory notice, but the petitioner neither repaid the amount, nor sent any reply and hence, the respondent filed a complaint against the petitioner under Section 138 of the N.I.Act.

5. However, it is the case of the petitioner/accused that he has signed the said cheque, but, he has not filled the writings in the said cheque and the same was misused at the instance of the learned counsel for the respondent/complainant and that he wants to send the impugned cheque-Ex.P1 and acknowledgment-Ex.P5 to the hand-writing expert for comparison of the signature.

6. On a perusal of the records, particularly, cross examination of P.W.1, it is seen that the petitioner himself admitted the signature in the

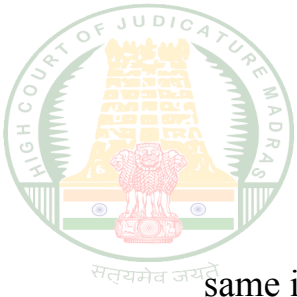


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Ex.P1-Cheque. When once, the petitioner admitted the signature in the cheque, it need not be sent to the expert opinion for comparison of the signature. It is the duty of the petitioner to rebut the presumption. It is further seen that the complaint was filed in the year 2018 itself, however, the petitioner had not taken any steps to send the cheque and acknowledgment for comparison, till 2024. If at all the petitioner has not filled the cheque himself and the handwriting is not that of him, as a prudent man, he ought to have filed a memo before the learned Magistrate for inspection of the cheque in question. However, the petitioner has not taken any steps seeking assistance of an expert opinion till the respondent went to the witness box. After completing the respondent's side evidence, and only to drag on the proceedings, the petitioner has filed the said petition by sending the cheque and acknowledgment for expert opinion.

7. For the above reasons, this Court does not find any perversity in the order of the Court below and the learned Magistrate has rightly dismissed the petition and hence, there is no merit in this revision and the



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same is liable to be dismissed.

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8. Accordingly, this Criminal Revision Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

03.03.2025

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Case Citation : Yes / No

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To
The Judicial Magistrate,
Fast Track Court-1, Erode.



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P.VELMURUGAN, J.

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