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Crl.R.C.Nos.2322 and 2365 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case Nos. 2322 and 2365 of 2024
and
Crl.M.P.Nos.17973 and 18267 of 2024

S.Kamalendar

S/o.P.Sriramulu

... Petitioner

in Crl.R.C.No.2322 of 2024

P.Sriramulu

S/o.Ponnusamy

... Petitioner

in Crl.R.C.No.2365 of 2024

..VS..

M.V.Gemburaj

S/o.T.M.Velu

... Respondent

in both Crl.R.Cs.

Criminal Revision Cases filed under Sections 438 and 442 of BNSS, 2023, to set aside the order dated 24.09.2024 made in Crl.M.P.Nos.15608 of 2024 in C.C.No.1602 of 2019 and Crl.M.P.No.15609 of 2024 in C.C.No.1603 of 2019 on the file of the Metropolitan Magistrate, Fast Track Court –V, Saidapet, Chennai.



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For Petitioners in both Crl.R.Cs. : Mr.R.Sankarakutralingam

For Respondent in both Crl.R.Cs : Mr.M.Silambarasan

For Mr.R.Ganesh Babu

COMMON ORDER

These revision petitions are preferred against orders dated 24.09.2024 made in Crl.M.P.Nos.15608 of 2024 in C.C.No.1602 of 2019 and Crl.M.P.No.15609 of 2024 in C.C.No.1603 of 2019 on the file of the Metropolitan Magistrate, Fast Track Court –V, Saidapet, Chennai.

2. The respondent/complainant filed the complaints under Section 138 of Negotiable Instruments Act [hereinafter referred to as 'N.I.Act'] against the petitioners/accused in C.C.Nos.1602 and 1603 of 2019 before the Metropolitan Magistrate, Fast Track Court-V, Saidapet, Chennai-15. Pending calendar cases, the petitioners/accused filed the petitions invoking Section 45 of Indian Evidence Act, seeking expert opinion and the said petitions came to be dismissed. Challenging the same, the petitioners/accused have come forward with the present revision petitions.



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3. Learned counsel for the petitioners submitted that the petitioners/accused never borrowed the alleged amount from the complainant at any point of time, therefore, the question of execution of disputed promissory notes and issuance of cheques does not arise. The respondent/complainant created the forged and fabricated documents and filed the complaints. Hence, the petitioners/accused seek expert opinion, in order to assist the Court to find out the truth. He further submitted that at the time of recording statements of the petitioners under Sections 251 and 313 Cr.P.C., they had denied the execution of promissory notes and issuance of cheques, but the learned Magistrate, without considering the aforesaid denial, had erroneously dismissed the petitions by holding that the petitioners did not deny the execution of promissory notes and issuance of cheques in the earlier stage.

4. Learned counsel for the respondent submitted that even prior to filing of the complaints, the respondent/complainant sent statutory notice to the petitioners, but they have not sent reply denying the execution of promissory notes and issuance of cheques. He further submitted that the complaints have been filed in the year 2019 and when the cases were



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posted for arguments after a lapse of 5 years, the petitioners filed the petitions seeking expert opinion in order to drag on the proceedings.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondent and perused the materials available on record.

6. On a perusal of the entire background of facts and materials, it is seen that though the respondent/complainant had issued statutory notice to the petitioners, after receipt of notice, the petitioners / accused did not send reply denying the liability. Further, the disputed promissory notes and cheques were issued in the year 2016, 2017 and 2018 and the same were shown in the complaints as list of documents. The petitioners had received summons in the calendar cases in the year 2019 itself. If at all the respondent, who is not known to the petitioners filed the complaints for the offence under Section 138 N.I.Act, as a prudent men, the petitioners can take steps to inspect the documents annexed in the complaints and bring out the veracity of those documents. Moreover, they have not denied the signature of the disputed cheques and promissory notes, when their statements recorded under Section 251 and 313 Cr.P.C. After a lapse of five years, that too at the stage of arguments,



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the petitioners raised such defence as denial of execution of those documents.

7. Under these circumstances, this Court does not find any perversity or infirmity in the impugned orders passed by the learned Magistrate. As there is no merit in these revision petitions, the same are liable to be dismissed. Accordingly, the Criminal Revision Petitions are dismissed.

8. The learned Metropolitan Magistrate, Fast Track Court-V, Saidapet, Chennai, is directed to dispose of the case in C.C.Nos.1602 and 1603 of 2019 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

21.04.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation Case : Yes/No
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To

The Metropolitan Magistrate,
Fast Track Court –V,
Saidapet, Chennai.



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P.VELMURUGAN, J.

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