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Crl.R.C.No.2207 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 No. 2207 of 2024
and
Crl.M.P.No.17320 of 2024

C.Alaguvel

S/o.Selvamuthu

... Petitioner

..VS..

D.Ramesh Babu

S/o.Dharmalingam

... Respondent

Criminal Revision filed under Sections 438 read with 442 of BNSS, 2023, to call for the records of the order dated 09.10.2024 in Crl.M.P.No.15716 of 2024 in C.C.No.1326 of 2020 on the file of the FTC V, Metropolitan Magistrate, Saidapet, Chennai for the purpose of satisfying itself as to the correctness, legality and propriety and set aside the same.

For Petitioner : Mr.A.Rajamohamed

For Respondent : Mr.N.Elayaraja



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ORDER

This revision petition has been filed against order dated 09.10.2024 passed in Crl.M.P.No.15716 of 2024 in C.C.No.1326 of 2020 on the file of the Metropolitan Magistrate, Fast Track Court-V, Saidapet, Chennai-15.

2. The respondent herein filed a complaint invoking Section 138 of Negotiable Instruments Act, 1881 against the petitioner/accused in C.C.No.1326 of 2020 before the Metropolitan Magistrate, Fast Track Court-V, Saidapet, Chennai-15. After completion of recording evidence of both sides, at the time of arguments, the petitioner/accused filed a petition in Crl.M.P.No.15716 of 2024 under Section 311 A Cr.P.C., read with Sections 45 and 73 of the Indian Evidence Act, 1872, seeking to send the disputed cheques i.e., Ex.P2, Ex.P7 and Ex.P8 for getting expert opinion. The learned Magistrate, *vide* order dated 09.10.2024 dismissed the petition. Feeling aggrieved with the said findings, the petitioner/accused has come forward with the present revision petition.



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3. It is the contention of the learned counsel for the petitioner that impugned cheques were given to the respondent/complainant only for security purpose. Further, the petitioner had handed over the disputed cheques (blank cheques) signed by him, which were misused by the respondent. During the cross examination, the petitioner/accused put a suggestion before the respondent/complainant, whether the petitioner issued the filled cheques, for which, the respondent admitted the same. However, it is totally a false and baseless statement, which has been made with an intention to harass the petitioner and to make illegal gain over those cheques. Though the respondent/complainant had manipulated the cheques and that without getting expert opinion the truth will not come out, the learned Magistrate had failed to consider the aforesaid facts and dismissed the petition.

4. Per contra, the learned counsel for the respondent submitted that the petitioner/accused had admitted the signature and issuance of those cheques and hence, there is no necessity to send the cheques for forensic department for getting expert opinion. He further submitted that the



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petitioner did not raise the defence with regard to hand writing differs in the disputed cheques, when his statement recorded under Sections 251 Cr.P.C., and 313 Cr.P.C., but at the time of arguments, only to drag on the proceedings, he filed the petition invoking Section 311 A Cr.P.C., to send the subject matter of cheques to get hand writing expert opinion. However, the learned Magistrate, after hearing the submissions of both sides, dismissed the petition by holding that once issuance and signature of the cheques are admitted by the accused, it would attract rebuttable presumption under Section 139 of N.I.Act.

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

6. The petitioner had admitted the signature and issuance of the disputed cheques, however, the only defence raised by the petitioner/accused is that hand writing in the disputed cheques differs.

7. On a perusal of the entire materials, it is seen that after



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completion of both side evidence and at the time of arguments, the petitioner had raised the said defence. Once the petitioner had admitted the execution and signature of the disputed cheques, even sending the cheques for getting expert opinion no truth would come out. If at all the petitioner had denied the hand writing in the disputed cheques, the Court can compare the same with contemporary documents.

8. Under these circumstances, this Court does not find any reason to interfere with the findings of the Court below. As there is no merit in the revision petition, the same is liable to be dismissed. Accordingly, the criminal revision petition is dismissed. Consequently, connected miscellaneous petition is closed. However, it is open to the petitioner/accused to produce the contemporary documents i.e., documents prior to the disputed cheques, before the Court below and on such production, the learned Magistrate shall exercise his powers under Section 73 of Indian Evidence Act and compare the disputed cheques



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with contemporary documents and dispose of the case in C.C.No.1326 of 2020 on merits and in accordance with law as expeditiously as possible.

21.04.2025

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To

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



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P.VELMURUGAN, J.

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